



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

Room 160  
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Duluth, Minnesota 55802



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planning@duluthmn.gov

File Number	PL 20-138	Contact	John Kelley, <a href="mailto:jkelley@duluthmn.gov">jkelley@duluthmn.gov</a>	
Type	Variance – Shoreland structure setback	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	September 8, 2020	60 Days	November 7, 2020
	Date Extension Letter Mailed	September 22, 2020	120 Days	January 6, 2021
Location of Subject		2511 West 13 <sup>th</sup> Street		
Applicant	Kevin Heaslip	Contact		
Agent	Evan Peterson	Contact	Superior Construction	
Legal Description		See attached		
Site Visit Date	010-2910-00900	Sign Notice Date		September 29, 2020
Neighbor Letter Date	September 28, 2020	Number of Letters Sent		29

**Proposal:**

The applicant is seeking a variance to construct a new 20x26 garage within the 150' shoreland setback of Miller Creek.

**Recommended Action:**

Staff recommends approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Single Family Homes	Traditional Neighborhood/Open Space
<b>North</b>	R-1	Single Family Homes	Traditional Neighborhood
<b>South</b>	R-1	Single Family Homes	Open Space
<b>East</b>	R-1	Single Family Homes	Traditional Neighborhood/Open Space
<b>West</b>	R-1	Single Family Homes	Traditional Neighborhood/Open Space

**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 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):**

Governing Principle #1 - Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources, directs new investment to sites which have the potential to perform at a higher level than their current state. The applicant is proposing to construct the new garage in the general area of the existing structure location.

Governing Principle 5 – Promote reinvestment in neighborhoods .... through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood’s character . The homeowner will be reinvesting in their home in the Lincoln Park neighborhood by constructing a new garage.

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.

History: House constructed in 1926.

**Review and Discussion Items**

- 1) The applicant is requesting a shoreland variance to construct a 20 x 26 garage within the 150’ setback of Miller Creek, a cold-water stream. The proposed garage would be approximately 60 feet from Miller Creek and located on the southwest corner of the property in a graveled area currently used for parking.
- 2) The applicant stated that there is approximately a 20-foot elevation change from their house to the proposed garage site. Alternative locations for the garage were considered but would also have the 20-foot elevation change and would require significant excavation, loss of trees, and more impervious surface that could impact the stream.
- 3) The garage would be accessed from West 13<sup>th</sup> Street via an existing graveled driveway. In front yard areas, driveways are required to be paved. The applicant has noted on the site plan that the driveway would be paved.
- 4) The proposed garage would meet setback requirements for accessory structures with a 3-foot setback from the southern property line. The applicant currently has an accessory building located on the adjacent tax forfeit parcel. Staff has asked that the structure/shed be removed and is noted on the site plan to do so.
- 5) The applicant is proposing a reasonable use of the site consisting of garage constructed in the general area of the existing graveled parking area.
- 6) The proposal will not alter the essential character of the neighborhood as adjacent homes and garages are in proximity to or within to the shoreland setback from Miller Creek.
- 7) Section 50-37.9.L of the UDC requires mitigation for shoreland variances; the applicant is proposing to install gutters on the garage with all roof runoff being collected from the drain tile and diverted to a proposed rain garden located on the north side of the driveway. The property is forested and has existing ground cover between the proposed garage and Miller Creek.
- 8) The proposed modification to improved surfaces, including a paved driveway and garage roof, from gravel driveway and parking area, is likely to reduce surface runoff of sediment and silt into the creek.
- 9) No other public, private or City comments were received.
- 10) 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 based on the site plan and drainage plan submitted with the application.
- 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 20-138  
Variance - Shoreland Setbacks

**Legend**

- Gas Main
- Water Main
- Hydrant

**Sanitary Sewer Mains**

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin

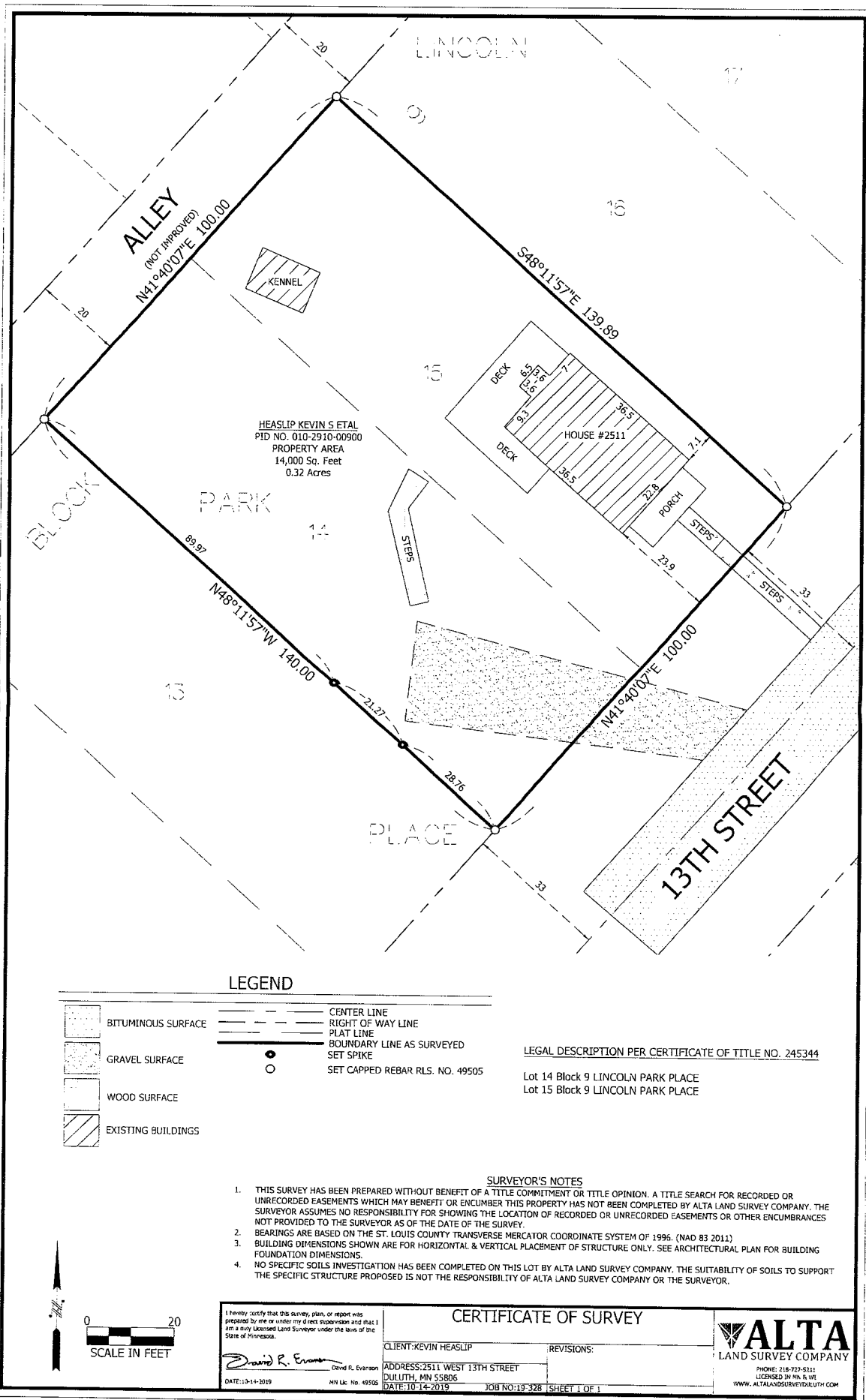
**Zoning Boundaries**

- Trout Stream (GPS)
- Other Stream (GPS)

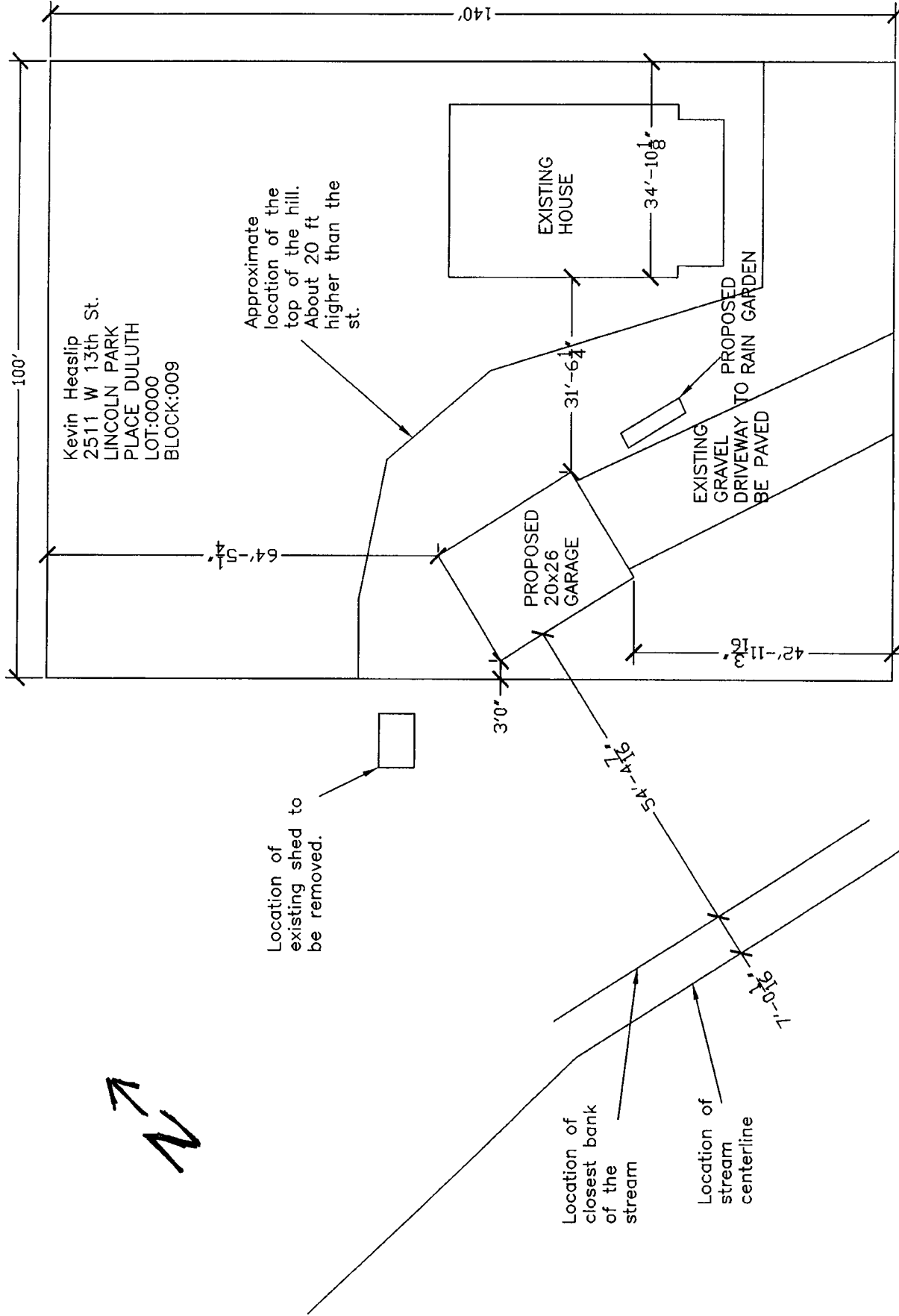
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CENTERLINE OF 13th St.


No Scale



# Untitled Map

Write a description for your map.

## Legend

 2511 W 13th St



Google Earth

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8.04 ft



To the Planning Commission in Duluth:

We are neighbors of Kevin and Kathy Heaslip and support the Heaslip's garage build. We would like to see a variance granted from the shoreland setback requirements.

Maurice Strand - 2904 W. 13th St.  
218-213-8628

Tim Wencinski 2522 W 13th St  
218-348-0296

John Norman 2509 W. 13<sup>TH</sup> St.

Josh Redz 1301 ~~W.~~ Lincoln Park Dr  
Ryn ~~Dr~~ 1305 Lincoln Park Dr.

Sara Feick  
Whittle

1317 Lincoln park dr.  
1325 Lincoln park dr.

John Steger

Greg Somack

2520 W 13<sup>th</sup> St

Kathy Mac

2527 W 13th St.

Melissa Orr

1219 Lincoln park dr.