



**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 20-147	Contact	Kyle Deming, <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
Type	Variance – side yard setback	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	September 10, 2020	60 Days	November 10, 2020
	Date Extension Letter Mailed	October 6, 2020	120 Days	January 8, 2021
Location of Subject		2835 Minnesota Ave. (Park Point)		
Applicant	Patrick & Heather Sims	Contact		
Agent		Contact		
Legal Description		Lot 197, Minnesota Ave., Lower Duluth and 198, St. Louis Ave., Lower Duluth (010-3110-01030)		
Site Visit Date		October 2, 2020	Sign Notice Date	September 29, 2020
Neighbor Letter Date		October 2, 2020	Number of Letters Sent	28

**Proposal**

Demolish the home, retaining the basement, and construct a new two-story dwelling and attached one-car garage with living space above. The request is a variance to allow the new two-story dwelling to be 6 feet from the side lot line, which is the present one-story structure's setback, when the zoning requires a combined setback of 12 feet and the proposed combined setbacks is 9.7 feet. The proposal is also to extend the variance area 26 feet toward the front lot line for a one-car garage with living space above.

**Recommended Action:** Approve variance with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Dwelling	Traditional Neighborhood
<b>North</b>	R-1	Dwellings	Traditional Neighborhood
<b>South</b>	R-1	Dwellings	Traditional Neighborhood
<b>East</b>	R-1	Dwellings	Traditional Neighborhood
<b>West</b>	R-1	St. Louis Bay	Traditional Neighborhood

**Summary of Code Requirements**

Table 50-14.5-1 – Minimum width of side yard for lots with less than 50 feet of frontage, but more than 25 feet is the combined width of side yards must be at least 12 feet, with no side yard less than 3 feet.

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.

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

Zoning – Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Future Land Use – Traditional Neighborhood - Characterized by grid/connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions. 4-8 units/acre, mix of housing types (i.e. town homes and 4-plexes).

**Review and Discussion Items**

Staff finds that:

- 1) The applicant’s existing 1,728 sq. ft. dwelling was constructed in 1900, including a 2005 one-story addition (252 sq. ft.) put on to the north. The existing home is positioned on the lot with 3.4 feet to the south property line and 6.3 feet to the north property line, which were compliant with required setbacks at the times of their construction.
- 2) The 40 foot wide property is zoned R-1, Residential-Traditional, which requires a side yard setback of a combined 12 feet with neither setback less than 3 feet. The new home would comply with the second clause (house is 3.4 feet to the south lot line), but cannot comply with the first clause, which requires a combined 12 feet of setbacks ( $12 - 3.4 = 9.7$ ) while reusing the existing foundation that is set at 6.3 feet to the north property line.
- 3) The applicant is proposing to reuse the existing 12 inch block foundation after an assessment by MBJ Engineering found it in excellent condition.
- 4) In order to comply with current setbacks, the applicant would need to reduce the encroaching foundation which imposes multiple practical difficulties with regard to equipment access to the narrow side yard for demolition as well as risk of damaging the neighbor’s dwelling.
- 5) The applicant is proposing to use the property in a reasonable manner through removing an existing 120 year old dwelling that is not conducive to the applicant’s use, and constructing a new dwelling on a combination of the existing foundation and a new 12 foot by 26 foot one-car attached garage.
- 6) The special circumstances creating the need for the variance are a result of a previous owner who constructed the 2005 one-story addition to the north in compliance with setbacks at the time combined with a change in setback requirements in 2010.
- 7) Due to the narrow width of the parcel (40 feet) there are not practical ways to construct a one-car garage addition while retaining the existing foundation without seeking a variance. The narrow width also constrains where additional living space can be added to the property.
- 8) The variance, if granted, will not alter the essential character of the area as there are currently multiple two-story dwellings on small lots on the blocks surrounding the subject parcel, including the dwelling on the property to the south.
- 9) The two-story dwelling proposed for the site may reduce the amount of light falling on the property to the north but, because the new structure will be set at 6.3 feet from the north property line, the reduction is not expected to cause substantial impact. Likewise, due to the size of the structure and the distance to the property lines, there is not anticipated to be a reduction in air circulation.
- 10) The health, safety, and public welfare are not expected to be effected by the granting of the variances. Construction of the new dwelling according to current building codes will reduce the danger of fire when compared to the current building and the use as a dwelling is not expected to cause public safety or congestion concerns.

11. The variance, if granted, would not impair established property values in the surrounding area since views of and access to water are significant factors in property values on Park Point and this project has no effect on the those features of neighboring properties.
12. 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 Traditional Neighborhood and housing policy that seeks to foster opportunities for reinvestment in homes.
13. No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H since landscaping is not required for one-family dwellings.
14. No comments from citizens, City staff, or any other entity were received regarding the application.
15. 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 plans provided by the applicant including the Site Plan, Sheet C100 dated 8/31/2020;
- 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 20-147  
2835 Minnesota Ave.  
Side Yard Setback Variance

### Legend

-  Subject Parcel
-  Parcel 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

0 80 160 320 480 Feet

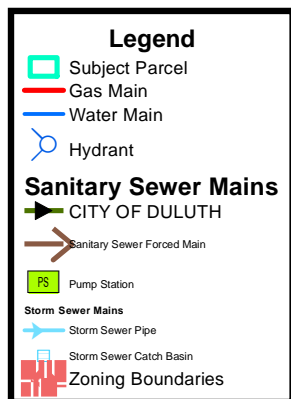


Prepared by: City of Duluth Planning & Economic Development, June 2, 2020. Source: City of Duluth.



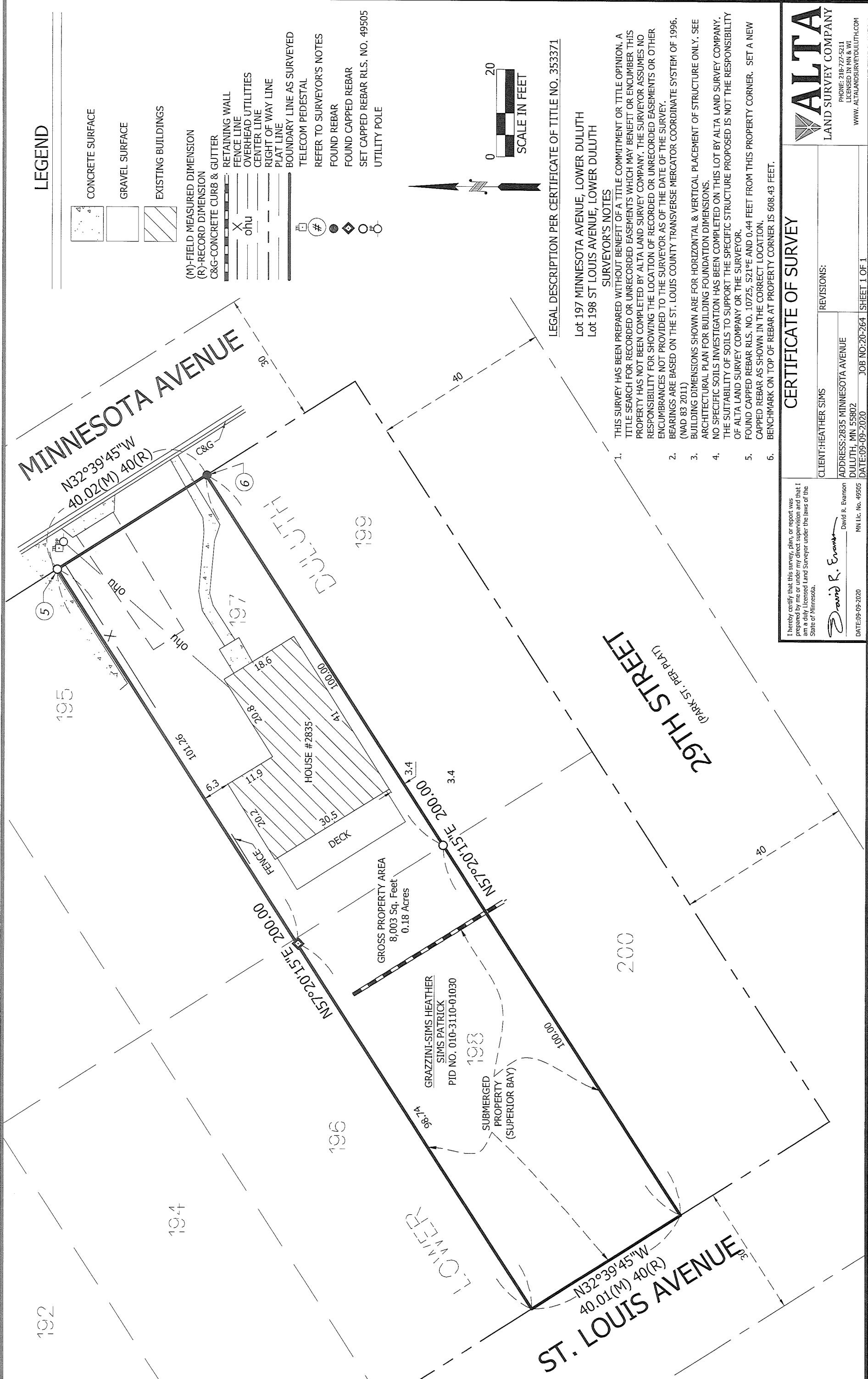


PL 20-147  
2835 Minnesota Ave.  
Side Yard Setback Variance

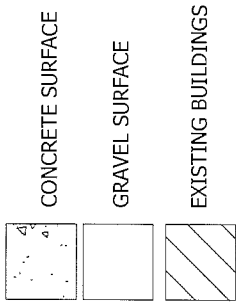


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.

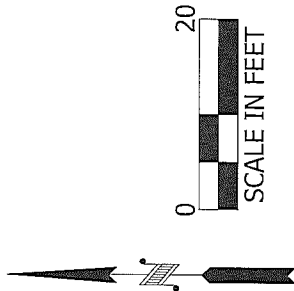
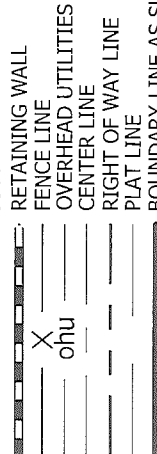




LEGEND



(M)-FIELD MEASURED DIMENSION  
(R)-RECORD DIMENSION  
C&G-CONCRETE CURB & GUTTER



LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 353371

Lot 197 MINNESOTA AVENUE, LOWER DULUTH  
Lot 198 ST LOUIS AVENUE, LOWER DULUTH

SURVEYOR'S NOTES

- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
- NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
- FOUND CAPPED REBAR RLS, NO. 10725, S21°E AND 0.44 FEET FROM THIS PROPERTY CORNER. SET A NEW CAPPED REBAR AS SHOWN IN THE CORRECT LOCATION.
- BENCHMARK ON TOP OF REBAR AT PROPERTY CORNER IS 608.43 FEET.

CERTIFICATE OF SURVEY

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.

David R. Evanson  
David R. Evanson  
MN Lic. No. 49505  
DATE: 09-09-2020

CLIENT: HEATHER SIMS

ADDRESS: 2835 MINNESOTA AVENUE  
DULUTH, MN 55802  
DATE: 09-09-2020

REVISIONS:

JOB NO: 20-264 SHEET 1 OF 1



PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTAANDSURVEYDULUTH.COM

St Louis Ave

194

2005 12'x21' One (1) Story Existing Addition - Proposed To Rebuild Two (2) Story Addition - Shaded Blue

Approx. location of shoreline

98.74'

Existing Grades to Remain, Existing Grass/Vegetation to be Undisturbed to the furtherest extent possible

198

Existing Steel Seawall

St Louis Ave

200

Note: Existing Foundation (Footprint) to remain the same size - exception: new garage addition

New rain garden between home and shoreline

193

Existing Arborvitae (Qty 2) to be removed

Proposed 12'x26' Two (2) Story Single Car Garage Addition - Shaded Green

101.26'

10' Wide Permeable Paver Driveway



34.78'

41' - 6"

197

Original 18'x41' Two (2) Story Existing House - Proposed To Rebuild Two (2) Story

199

Note: Any OH utilities shall be buried - power & low voltage (TV Cable)

New landscaping - shrubs, flowers, etc.

Existing Birch Tree to Remain

Existing Grades to Remain, Existing Grass/Vegetation to be Undisturbed to the furtherest extent possible

3' Wide Permeable Paver Sidewalk

Existing Landscaping to be removed, landscaping to be replaced upon construction completion, to be a rain garden.

Minnesota Ave

29th Street

Pat and Heather Sims

Site Plan

Project number	01
Date	8/31/2020
Drawn by	BN
Checked by	PS

C100

Scale 1" = 20'-0"

Reasons for this Request Cont'd:

- 1) The existing house (18'x41') was constructed in 1900, and with the construction in that era, the house is not energy efficient as the walls are 2x4 construction.
- 2) The wall insulation and windows were installed in 1964 and lack the thermal efficiency of modern wall insulation and high-quality windows.
- 3) The electrical wiring is a combination of various ages with some wiring that still has the cloth shielding.
- 4) The siding is in very poor condition and needs to be replaced.
- 5) The house is a combination of the original house and an addition that was added in 2005 and has a very inefficient floor plan, room sizes, etc. which make it very costly to remodel and/or reconfigure.
- 6) The existing wood framing would not meet current building codes regarding wind loading, particularly at the harbor side of the existing house.
- 7) The existing deck (harbor side), deck board spacing is too wide and does not meet code, 1/2" – 5/8" wide spacing.
- 8) The existing deck (harbor side), railing spindles spaces are greater than 4" wide and do not meet code, as well as the railing attachment does not meet the 250 lb code required force restraint for a guardrail.
- 9) The existing foundation is 12" block and is in excellent condition. MBJ Engineering reviewed the foundation and determined the foundation is certainly worth keeping.
- 10) The existing has a drain tile system/sump pump that was installed in 2017, which keeps the basement dry and is very effective, which is another reason to keep the existing foundation.

# ELEVATION CERTIFICATE

## BUILDING PHOTOGRAPHS

See Instructions for Item A6.

OMB No. 1660-0008

Expiration Date: November 30, 2022

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 2835 MINNESOTA AVENUE			Policy Number:
City DULUTH	State Minnesota	ZIP Code 55802	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.



Photo One

Photo One Caption FRONT VIEW 09-03-2020

Clear Photo One



Photo Two

Photo Two Caption RIGHT VIEW 09-03-2020

Clear Photo Two

# ELEVATION CERTIFICATE

## BUILDING PHOTOGRAPHS

Continuation Page

OMB No. 1660-0008

Expiration Date: November 30, 2022

**IMPORTANT: In these spaces, copy the corresponding information from Section A.**

**FOR INSURANCE COMPANY USE**

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.  
2835 MINNESOTA AVENUE

Policy Number:

City  
DULUTH

State  
Minnesota

ZIP Code  
55802

Company NAIC Number

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8.



Photo Three

Photo Three Caption REAR VIEW 09-03-2020

Clear Photo Three



Photo Four

Photo Four Caption LEFT VIEW 09-03-2020

Clear Photo Four