



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 20-161	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – Shoreland setback	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	October 5, 2020	60 Days	December 5, 2020
	Date Extension Letter Mailed	October 6, 2020	120 Days	February 2, 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 set at 27 feet instead of the required 50 feet from St. Louis Bay. The applicant is proposing a permeable paver driveway and sidewalk and the installation of rain gardens in mitigation for Shoreland impacts.

Recommended Action: Approve variance with conditions.

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

Summary of Code Requirements

Sec. 50-18.1.D.3(a) – Minimum Shoreland Area Standards for General Development Waters, Minimum Setback to Ordinary High Water Level for Structures is 50 feet, Width of Naturally Vegetative Buffer is 50 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 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 - 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 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.

Natural Resources Overlay Zone - The purpose of this overlay is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota department of natural resources (DNR) shoreland.

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 property is located in a General Development Waters Shoreland Zone which requires structures to be setback 50 feet from the ordinary high water level at St. Louis Bay.
- 2) 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 27 feet from the ordinary high water level and is a legal, nonconforming building.
- 3) According to Sec. 50-38.3.A, a nonconforming building may continue to be used, and may be expanded provided that the expansion does not increase or extend any nonconformity horizontally or vertically. The proposal is to remove the dwelling down to the basement and construct a new two-story dwelling. The 252 sq. ft. 2005 addition is currently one-story tall and so replacing it with a two-story building is increasing the nonconformity vertically, conflicting with Sec. 50-38.5.A.
- 4) The applicant is proposing to reuse the existing 12 inch block foundation after an assessment by MJB Engineering found it in excellent condition.
- 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) 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.
- 7) The variance, if granted, will not alter the essential character of the area as there are currently multiple dwellings on the blocks surrounding the subject parcel that are built within the 50-foot Shoreland setback.
- 8) 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.
- 9) 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.

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11. 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.
12. No adverse impacts to the environment are expected from the granting of this variance since the applicant is proposing to offset the proposed structure's increased footprint by replacing the existing driveway and sidewalk with permeable pavers. Additionally, the setback to the water is not proposed to be reduced over the current position of the building, therefore, the amount of pervious area available to absorb runoff would remain the same. Overall, the infiltration of water on the site is expected to increase due to the proposed installation of two rain gardens, one to be located between the building and the bay.
13. No comments from citizens, City staff, or any other entity were received regarding the application.
14. 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

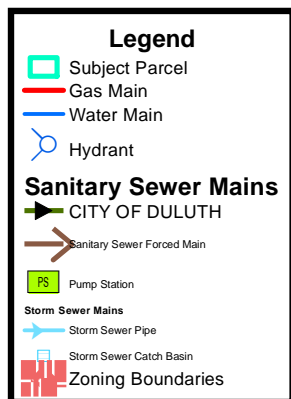


Prepared by: City of Duluth Planning & Economic Development, June 2, 2020. Source: City of Duluth.



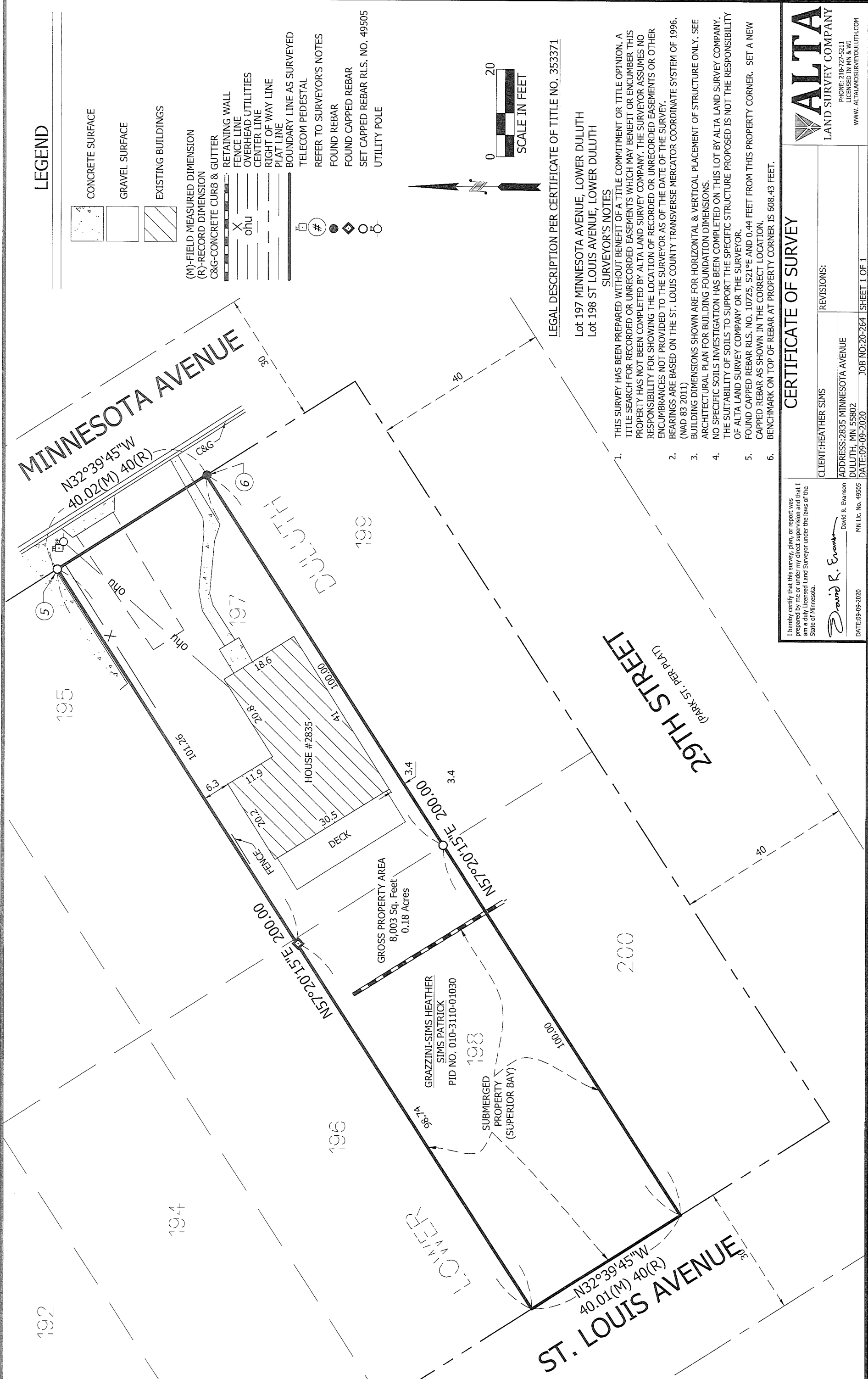


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CERTIFICATE OF SURVEY

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

CLIENT: HEATHER SIMS

ADDRESS: 2835 MINNESOTA AVENUE
 DULUTH, MN 55802

DATE: 09-09-2020

REVISIONS:

JOB NO: 20-264

SHEET 1 OF 1

ALTA
 LAND SURVEY COMPANY
 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

7.34'

34.78'

Existing Steel Seawall

198

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

200

193

Existing Arborvitae (Qty 2) to be removed

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

101.26'

6.3'

XXX

30.5'

Existing Steel Seawall

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)

29th Street

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

10' Wide Permeable Paver Driveway

3' Wide Permeable Paver Sidewalk

40.01'

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

Existing Birch Tree to Remain

New landscaping - shrubs, flowers, etc.

Minnesota Ave

Pat and Heather Sims

Lot 197 and 198

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.

Mitigation and Purpose Statement

The rebuild that is proposed will not hinder the purpose statement of 50-18.1.A to promote, preserve, and enhance the water resources and environment of the General Development Waters of Lake Superior. We are not proposing to increase the footprint of the existing structure as it relates to the existing shoreland setback, dimensional standards. We are proposing to rebuild on the existing foundations in order to avoid adverse or potentially irreversible impacts on unique and fragile land, by minimizing conflicts that would be created by the disturbance of removing the existing foundations. The existing property does not have any run-off mitigation, i.e. impervious paver hardscape, rain gardens, or rain water containment. In conjunction with the rebuild of the structure on the existing foundation, impervious pavers will be utilized for the driveway and sidewalk, in addition to rain gardens in the front and back yard, with rain water run-off/containment measurements throughout.

ELEVATION CERTIFICATE

BUILDING PHOTOGRAPHS

See Instructions for Item A6.

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 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