



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 21-025	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Variance – non-conforming building	<b>Planning Commission Date</b>		April 13, 2021
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>		1239 Missouri Avenue		
<b>Applicant</b>	RBI Group	<b>Contact</b>	Josh MacInnes	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>		See Attached		
<b>Site Visit Date</b>		April 2, 2021	<b>Sign Notice Date</b>	
			March 30, 2021	
<b>Neighbor Letter Date</b>		April 1, 2021	<b>Number of Letters Sent</b>	
			50	

**Proposal**

Applicant is requesting a variance to add a second story to a nonconforming dwelling unit. As constructed, the existing house does not meet the minimum front yard setback of 25 feet.

**Recommended Action:** Approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

**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 Principle and/or Policies and Current History (if applicable):**

Governing Principle #5 – Promote reinvestment in neighborhoods. This variance would allow for the construction of a second story onto an existing single family dwelling in the Kenwood neighborhood.

Housing Policy #4 – Improve the quality of the city's housing stock and neighborhoods. The variance would allow for additional housing stock for the City.

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..... Includes many of Duluth's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

History: The current parcel contains a 1,122 square foot single-family residence built in 1942.

**Review and Discussion Items**

1. Applicant is requesting a variance to increase the size of a nonconforming single family dwelling by adding a second story. The dwelling unit does not meet the required 25 foot side yard setback.
2. The home currently has an unfinished second floor (attic) and the proposal would be to increase the upper bulk dimensions of the nonconforming building to use as living space. The footprint of the house would not change. The proposal would not negatively impact any adjacent properties, nor negatively impact modify in any way the essential character of the neighborhood.
3. The applicant states that the current house, front of home, as built originally in 1942 sits crooked to the street. The house sits at 20.9 feet on the north corner of the home and 24 feet on the south corner as per the attached property survey.
4. The applicant is proposing to use the property in a reasonable manner by using the existing structure and footprint to vertically expand the nonconformity rather than tear down the home and construct a new dwelling unit.
5. The applicant exhibits practical difficulty in that the current nonconformity was not created by the landowner. The variance will not alter the essential character of the neighborhood as the proposed addition will resemble similar remodels and alterations to other homes in the area.
6. No public, agency, or other City comments were received.
7. 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 approve the variance with the following conditions:

- 1) The second floor addition, be limited to, constructed, and maintained according to the site plan submitted on March 9, 2021; and
- 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 21-024 Variance Location Map

**Legend**

- Road or Alley ROW
- ☒ Vacated ROW
- Easement Type**
  - ⋯ Utility Easement
  - ⋯ Other Easement
- Zoning Boundaries
- Shoreland (UDC)**
  - Cold Water
  - Natural Environment
  - General Development
- Trout Stream (GPS)
- Other Stream (GPS)

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.

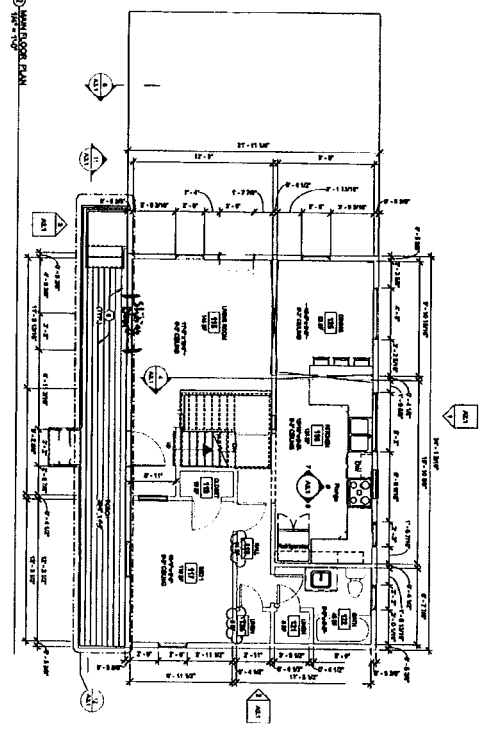




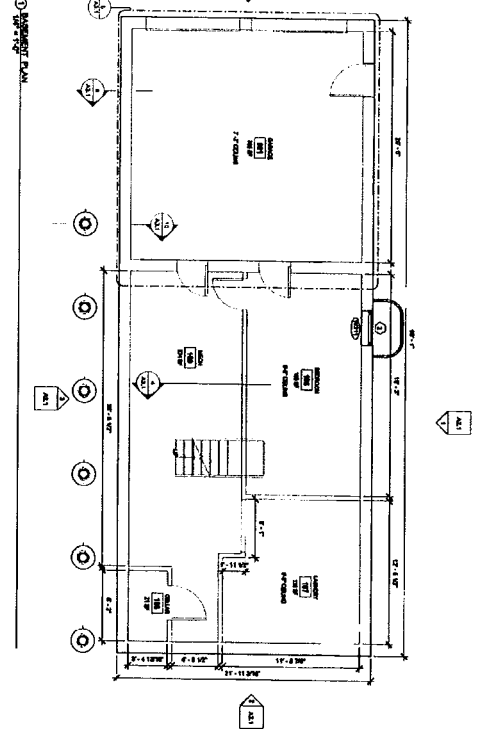


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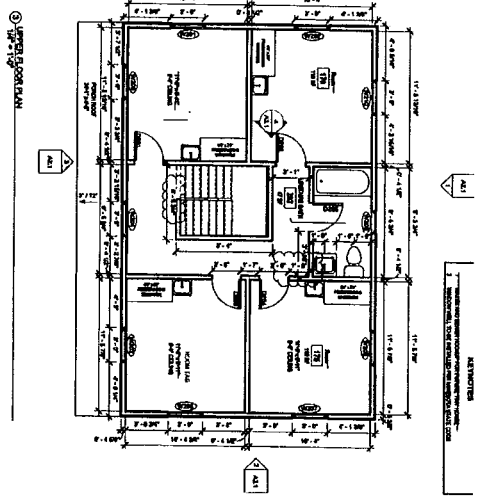
① BASEMENT PLAN



② FIRST FLOOR PLAN



③ SECOND FLOOR PLAN



NO.	REVISION	DATE	BY	CHKD.
1	ISSUED FOR PERMIT	02/12/2020	MM	MM
2	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
3	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
4	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
5	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
6	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
7	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
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9	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM
10	ISSUED FOR CONSTRUCTION	02/12/2020	MM	MM

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MEMBER

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MISSOURI AVE

RESIDENCE

1239 MISSOURI AVE

DULUTH, MN 55811

REV 0

DESCRIPTION DATE

NOT REVISION

PROJECT MANAGER

DATE

DRAWN BY

CHECKED BY

Author

Checker

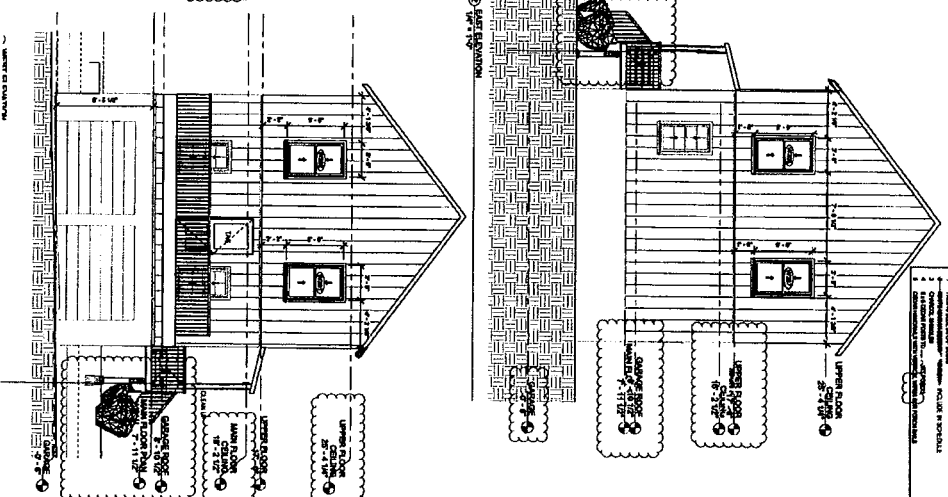
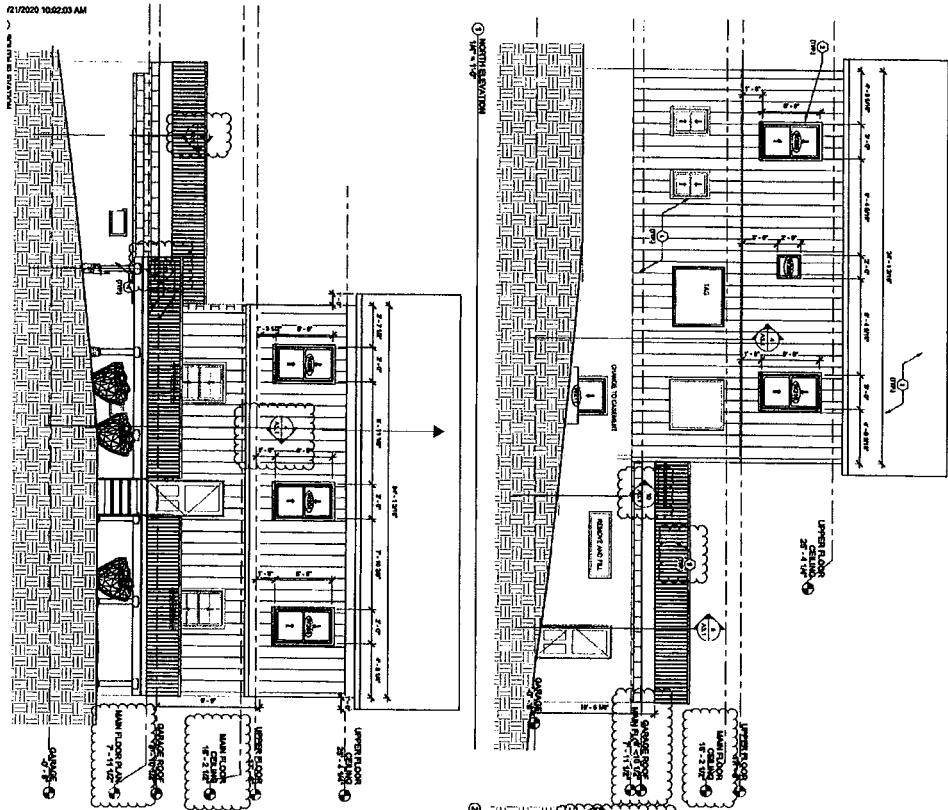
FLOOR PLANS

SCALE

1/4" = 1'-0"

A1.1

21/2020 10:02:03 AM



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MEMBER

**A1**

**B/D**

AMERICAN SOCIETY OF MECHANICAL ENGINEERS

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Two Harbors, MN 55816

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**MISSOURI AVE RESIDENCE**

1239 MISSOURI AVE

DULUTH, MN 55811

REV 0

NOT ISSUED

DATE

PROJECT NUMBER

DATE

DRAWN BY

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**ELEVATIONS**

SCALE

**A2.1**

1/4" = 1'-0"