



# Staff Report for PLVAR-2602-0005

## Application Information:

**Application Type:** Variance from Shoreland Setbacks

**Location of Subject:** 3605 Minnesota Ave

**Legal Description:** 010-3110-01780

**Applicant:** Corey Behlke

**Applicant Contact:** n/a

**Agent:** n/a

**Agent Contact:** n/a

**Staff Contact:** Christian Huelsman,

[chuelsman@duluthmn.gov](mailto:chuelsman@duluthmn.gov)

**Deadline for Action:**

**Application Date:** February 25, 2026

**Date Extension Letter Mailed:** March 2, 2026

**60 Days:** April 26, 2026

**120 Days:** June 25, 2026

**Site Visit Date:** April 1, 2026

**Sign Notice Date:** March 31, 2026

**Neighbor Letter Date:** n/a

**Number of Letters Sent:** n/a

## Proposal:

The applicant is seeking a variance from shoreland setbacks from the required 50' to 32.5' for new construction of a single-family home and attached garage.

## Recommended Action:

Staff recommends approval with conditions.

## Zoning and Land Use:

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<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>	None	Superior Bay	Superior Bay

## Summary of Code Requirements:

**50-18.1.D – Shorelands (paraphrased):** The shoreland overlay applies to lands within 1,000 ft of Lake Superior, with only portions of land within the shoreland area subject to these provisions. No shoreland permit shall be approved unless minimum shoreland area standards are met or a variance is obtained pursuant to Article 5. For General Development Waters (Table 50-18.1.D-1), minimum setbacks from Ordinary High Water Level (OHWL) or highest known water level (whichever is higher) are 50 ft for structures and 50 ft for impervious surfaces in the Shore Impact Zone. For all shoreland areas, lowest floor elevation above OWHL or highest known water level (whichever is higher) is 3 ft, except in areas where FEMA has established a base flood elevation, and minimum width of naturally vegetative buffer is 50 ft.

**50-37.9.C – General Variance Criteria (paraphrased):** The granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would impose practical difficulties.

**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):

Principle #4 – Reuse previously developed lands – This subdivision provides the opportunity for infill residential development within an existing neighborhood on land that has been impacted by surrounding residential development.

Principle #5 – Promote reinvestment in neighborhoods – This subdivision will allow the applicant to build infill housing in the neighborhood.

**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. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth 's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

**History:** A one-story residence and an attached, nonconforming garage – both built in 1967 – currently stand on the site with an issued demolition permit. The current residence became vacant several years ago and was subject to code violations related to solid waste storage, abandoned items, dumping, and illegal lodging within the secured building. A residence previously stood on the property until the 1960s.

## Review and Discussion Items:

Staff finds:

1. The applicant is seeking a variance from minimum shoreland area standards to construct a three-bedroom, single-family home with a garage. The plan proposes demolition of the existing principal structure and garage. The property is a small round peninsula, surrounded on three sides by Superior Bay.
2. The applicant requests to reduce the required structure setback and naturally vegetative buffer for General Development Waters from 50' to 32.5' to allow for the construction of the proposed house and garage.
3. *Variance Criteria #1 (exceptional narrowness, shallowness, or shape):* The subject property exhibits unique constraints due to the shape of the peninsula creating shoreland setbacks on three sides of the site. Public right-of-way to the north also adds additional setback requirements. This results in a limited buildable area
4. *Variance Criteria #2 (circumstances unique to the property, not created by the property owner):* Circumstances necessitating a shoreland variance are unique to the property and were not created by the applicant or the City. The existing house and garage currently sit within the shore impact zone, constructed when current standards for shoreland setbacks did not apply. The combination of the topography along the Superior Bay, existing riprap along the shoreline, and the functional need for improvement of the residential use and surrounding site create conditions that are inherent to the site rather than the result of any action by the property owner or the City. The applicant is proposing a new structure that is farther away from the water than the existing structures.
5. *Variance Criteria #3 (circumstances are peculiar to this property and do not apply generally to other land or buildings):* The circumstances prompting this request are unique to the Park Point neighborhood, specifically the west side of Minnesota Avenue, and do not generally apply to other properties within the shoreland area. The existing residence and garage was constructed in the early 1960s, predating the current shoreland setback standards. The property is isolated from other residential uses due to its orientation on the peninsula. Its location cannot be reasonably shifted outside the shoreland setback without undermining its intended residential use within a residential zone district.
6. *Variance Criteria #4 (proposes to use in a reasonable manner not permitted by code):* The proposed project represents a reasonable use of the property that is consistent with its long-standing and historic function as a residential lot, even though the current code does not permit a structure within the shoreland setback. With the proposed plan, the applicant has worked diligently to maintain similar or greater distances to the shoreline from the existing house, in all cases remaining out of the 25' shore impact zone. The proposed improvements do not


introduce intensified uses beyond what has existed for decades; rather, they replace an aging and deteriorated residential structure. The existing deck is to be eliminated while the garage is to retreat substantially from the western shoreline. Given the site's physical constraints, the proposal constitutes an appropriate reinvestment on a property with continually residential uses for nearly a century.

7. *Variance Criteria #5 (not impair light/air, increase congestion, or impair public safety or property values).* The proposed shoreland variance will not impair light or air, increase congestion, or negatively affect public safety or property values. The redevelopment of the property for a single-family home and garage will occur almost entirely within the width of the current residence and garage, and will not introduce new structures and uses that would alter natural light, air, or views of the Superior Bay. Because the redevelopment will replace a single-family home in-kind, no increase in congestion is anticipated. The project proposal will incorporate current building code and accessibility standards which will enhance overall public safety. This reinvestment in a residential zone district is expected to maintain or improve the value of the property without adverse impacts on surrounding properties.
8. *Variance Criteria #6 (will not impair intent of this Chapter or alter the essential character of the locality).* The requested shoreland variance will not impair the intent of the shoreland regulations or alter the essential character of the locality. The essential character of the area will not be altered since the use of the property is not changing. As a result, the proposal upholds the Chapter's intent to protect natural resources and community character while allowing the continued use of residential property. In addition, the applicant is providing mitigation that will further improve the shoreline, resulting in a better site than previously existed.
9. *Standards for variances in shorelands (does not compromise intent of shoreland regulations and mitigates impacts).* The proposed shoreland variance will not result in adverse consequences because the applicant will mitigate the impacts of construction within the shoreland area by performing the following: (1) rimming the upper slope of shoreline with mass, low-growing foundation plantings; and (2) establishing a no-mow, deep rooted, native grass area and perennial meadow from the structure to the foundational planting rim. Mature trees will be retained and unhealthy arborvitae will be removed, to be replanted with foundational shrubs.
10. One agency comment was received from the Minnesota Department of Natural Resources (MnDNR), which initially found concerning the new construction encroaching on the Shore Impact Zone, the most sensitive portion of the shoreland area. The applicant responded with revised site plans that eliminated a deck and bulkhead, impervious surfaces in the form of walking paths, and reduced dimensions of the proposed primary structure and garage to remove them at least 25 feet from the Shore Impact Zone. MnDNR included a recommended condition of approval to include submittal of a shoreland mitigation plan that includes a minimum 25 ft wide buffer of native vegetation to be maintained in perpetuity. The agency comment also included a recommendation condition that the applicant submit site drainage details that show runoff will be directed to a vegetated area outside the Shore Impact Zone. The comment also noted that any alterations below the OHWL, including placement of riprap upon the existing area occupied by riprap, may require a public waters work permit from MnDNR.
11. Staff find the applicant has demonstrated practical difficulty due to the necessity for replacing the existing residence and garage in its longstanding location with a new residence and garage that maintains safe conditions, meets accessibility and code requirements, and continues to provide an active residential use on the property. Strict compliance with the shoreland setback would prevent reasonable use of the residential property.
12. 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 Planning Review with the following conditions:

1. The project shall be constructed and limited to the plans submitted with the application, prohibiting new construction within 25 ft of the Ordinary High Water Level.

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2. The applicant shall follow the shoreland mitigation plan included in their landscape design that includes a minimum 25-foot-wide buffer of native vegetation that shall be maintained in perpetuity.
  3. The applicant shall submit site drainage details that show runoff will be directed to a vegetated area outside the shore impact zone.
  4. 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

# Staff Report Map for PLVAR-2602-0005:

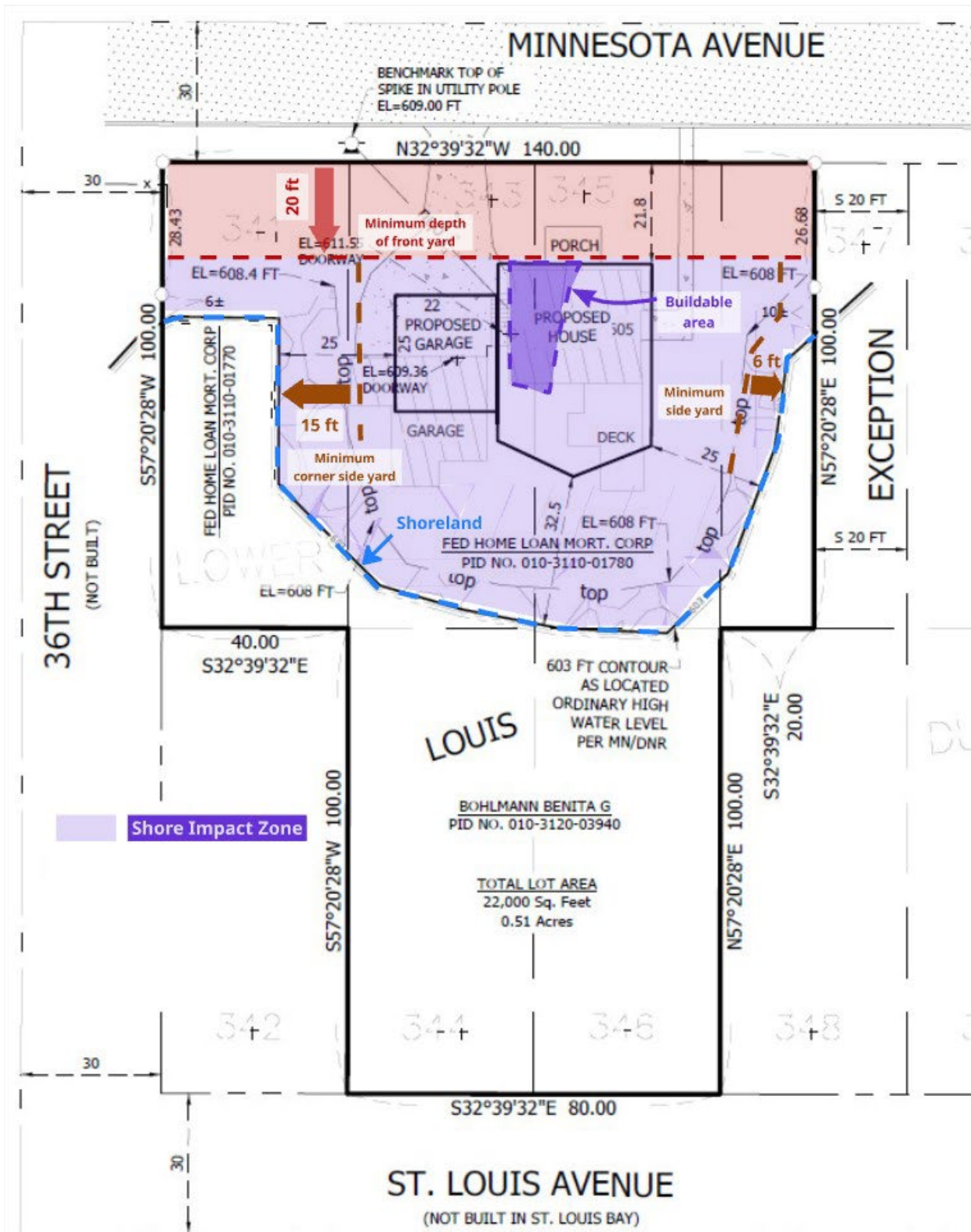


**Figure 1.**

Aerial imagery captured in 2025, showing Parcels #010-3110-01780, #010-3110-01780, and #010-3120-03940 outlined at the southwest corner of South Lake Avenue and South 36th Street, a property shown to exist within the General Development Shoreland Overlay Zone.

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.

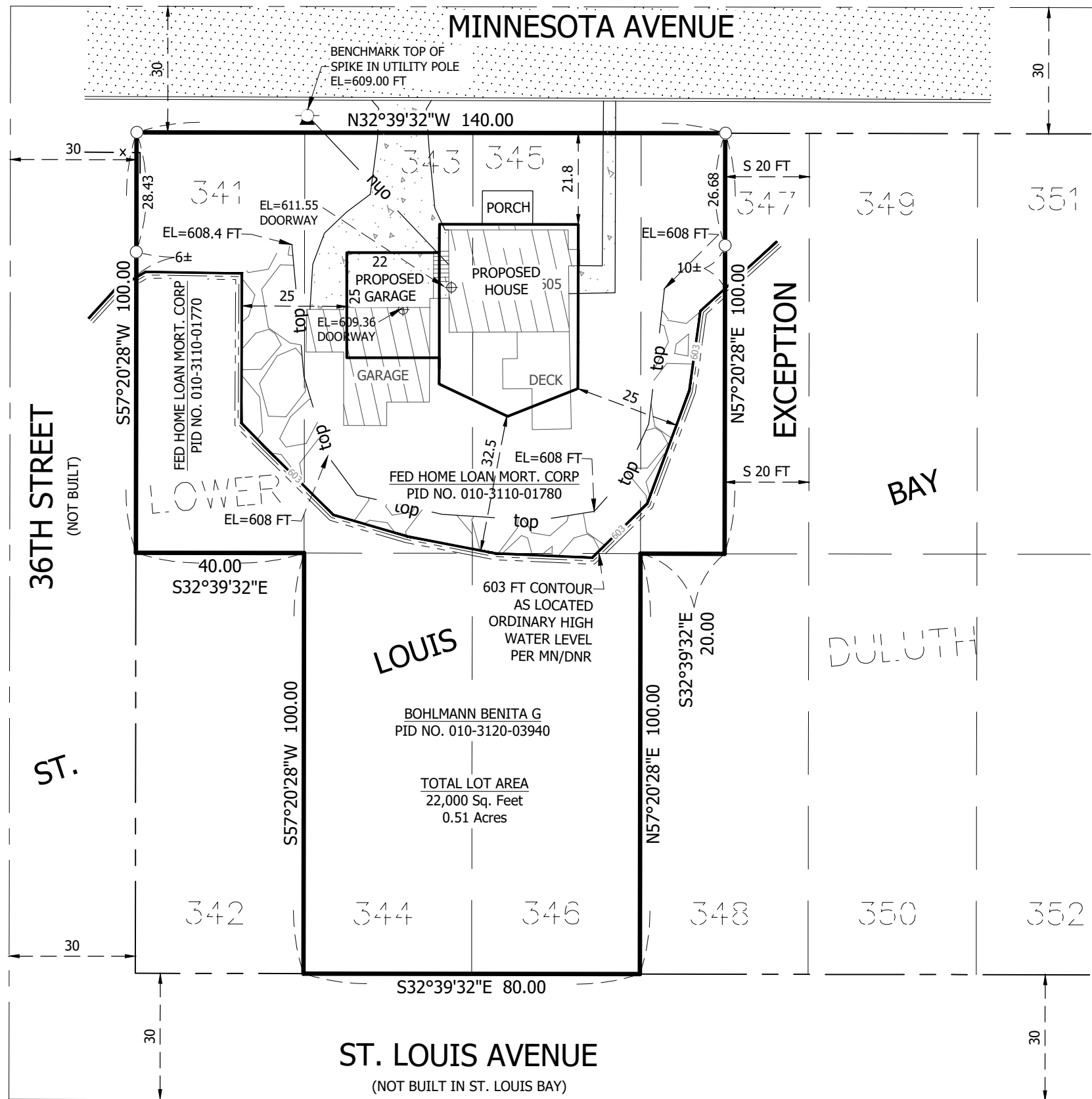
## Buildable Area Map:



The map shows the dimensional standards of minimum depth of the front yard, corner side yard, and side yard setbacks, along with the 50 ft Shore Impact Zone, to exhibit the buildable area on the applicant's property.

## Disclaimer for Externally Sourced Application Files

We strive to ensure digital accessibility for all users and comply with the Americans with Disabilities Act (ADA) and Web Content Accessibility Guidelines (WCAG) standards. The following documents are provided in the original format in which they were submitted. If you require an accessible version or alternative format, please contact us at [info@duluthmn.gov](mailto:info@duluthmn.gov).



**LEGEND**

	CONCRETE SURFACE		TOP OF BANK OR GRADE BREAK
	BITUMINOUS SURFACE		SHORELINE
	ROCK RIP RAP SURFACE		CONCRETE CURB & GUTTER
	EXISTING BUILDINGS		FENCE LINE
			OVERHEAD UTILITIES
			CENTER LINE
			RIGHT OF WAY LINE
			BOUNDARY LINE AS SURVEYED
			EXISTING PLAT LINE
			SPOT ELEVATION
			BENCH MARK
			SET CAPPED REBAR RLS. NO. 49505
			UTILITY POLE

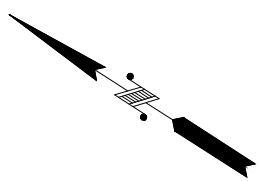
LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 371070  
Lot 344 ST LOUIS AVENUE, LOWER DULUTH

LEGAL DESCRIPTION PER DOCUMENT NO. 1255436  
Lot 347 EXCEPT South 20 feet, LOWER DULUTH MINNESOTA AVENUE, also Lot 346 LOWER DULUTH ST. LOUIS AVENUE.

LEGAL DESCRIPTION PER DOCUMENT NO. 994662  
Lot 341, MINNESOTA AVENUE, LOWER DULUTH, according to the recorded plat thereof.  
AND Lots 343 and 345, MINNESOTA AVENUE, LOWER DULUTH, according to the recorded plat thereof, on file and of record in the office of the Register of Deeds in and for St. Louis County, Minnesota.

**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.
- BENCHMARK SHOWN ON SURVEY.
- DUE TO SNOW AND ICE COVERAGE, SOME FEATURES MAY NOT HAVE BEEN VISIBLE DURING THE COURSE OF THIS 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 License #49505  
DATE:02-09-2026

**CERTIFICATE OF SURVEY**

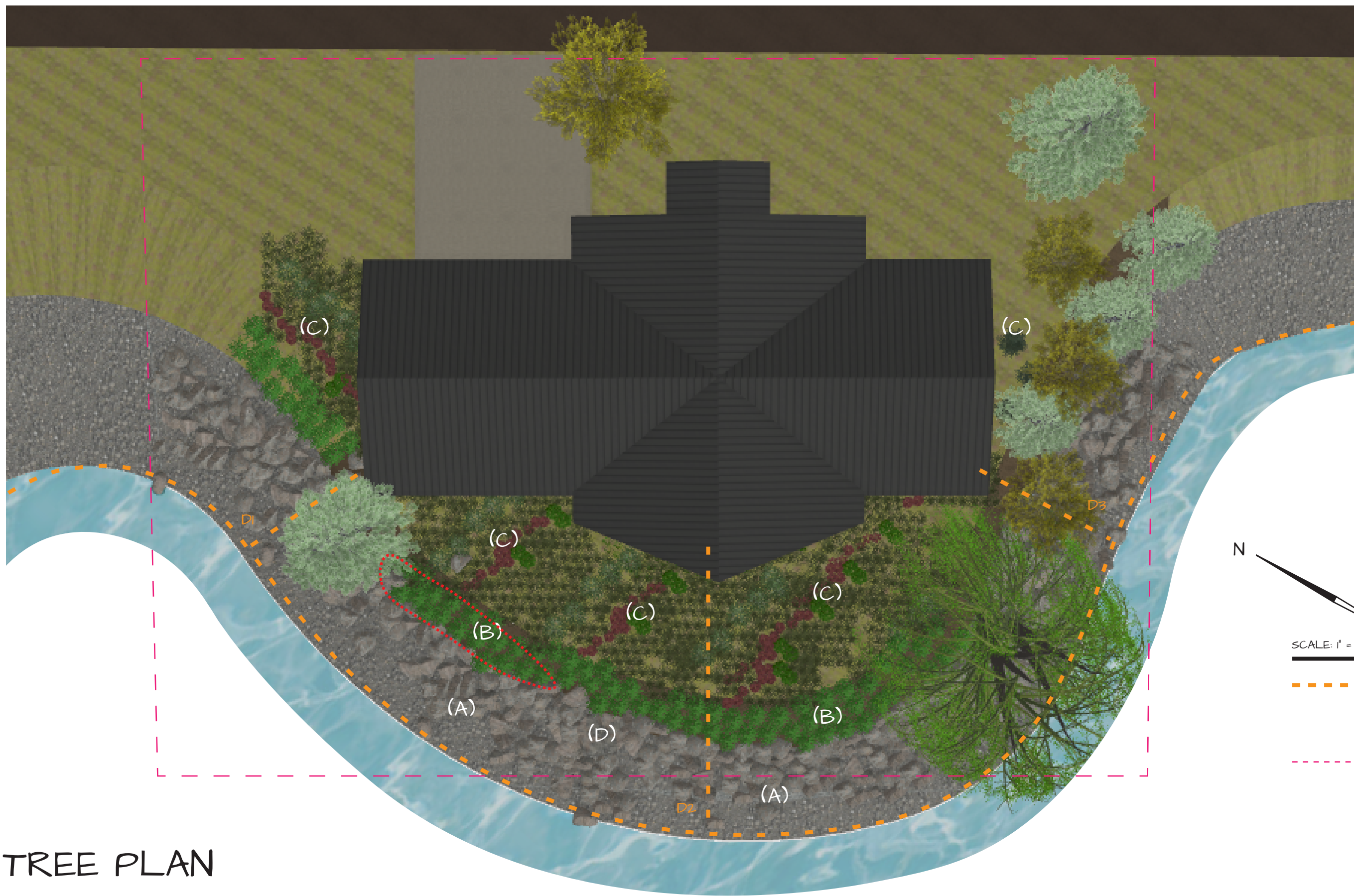
CLIENT: COREY BEHLKE  
ADDRESS: 3605 MINNESOTA AVENUE  
DULUTH, MN 55802  
DATE: 02-09-2026

REVISIONS:

JOB NO: 26-025 SHEET 1 OF 1

**ALTA**  
LAND SURVEY COMPANY  
PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTLANDSURVEYDULUTH.COM

# PROPOSED BUILDING LAYOUT FOR 3605 Minnesota Ave.



## TREE PLAN

Keep existing mature trees.  
 Remove unhealthy arborvitae. ....  
 Replant with foundational shrubs. (B)

## SHORELINE EROSION MITIGATION PLAN

NO PROPOSED IMPERVIOUS SURFACES

- (A) Enhance Shoreline armoring with larger boulders and rip rap.
- (B) Rim upper slope of shoreline with mass, low growing foundation planting. (example: Dwarf bush honeysuckle)
- (C) No mow, deep rooted native grass/perennial meadow from structure to foundational planting rim.

KEEP EXISTING SPRUCE

KEEP EXISTING BIRCH

KEEP EXISTING WILLOW





03/26/2026

City of Duluth – Planning and Economic Development  
411 West First Street  
Duluth, MN 55802

Re: Variance of Shoreland Controls at 3605 Minnesota Ave

Members of the Duluth City Planning Commission,

Thank you for the opportunity to comment on this application requesting an ordinary high water level (OHWL) setback variance at 3605 Minnesota Ave on Minnesota Point. My comments and recommendation are based on an evaluation of the facts presented in the application materials I received against the criteria in Minn. statute [§462.357](#). Based on this evaluation, **DNR recommends denial** of the variance.

The applicant has requested a variance from the OHWL setback of the Duluth-Superior Harbor. The proposed structures encroach on the shore impact zone (SIZ) which is the most sensitive portion of the shoreland area. The new residence appears to be approximately 1,760 square ft in size and 32 ft from the rear OHWL and 14 ft from the side OHWL. The new garage appears to be approximately 750 square ft in size and 18.5 ft from the side OHWL.

Under Minn. statute [§462.357](#), variances can only be approved when they are in harmony with the general purpose and intent of the zoning code and when they are consistent with the comprehensive plan. Specifically, variances can only be granted when the applicant proves there are practical difficulties in complying with the zoning code. If any of these criteria are not met, then the variance must be denied. The decision to approve or deny a variance requires a rational explanation based on the facts. Conditions may be considered, but only after a decision is made to approve.

The Duluth-Superior Harbor is considered a public water and the shoreland area consists of land within 1,000 feet of the harbor's ordinary high water level. Public waters are held in trust by the state for the benefit of the public. Shorelands are sensitive areas where special laws are needed to protect scenic character; aquatic and riparian vegetation; habitat; and to reduce the flow of nutrients into surface waters to maintain safe recreational opportunities. Minnesota's shoreland management rules provide minimum standards and criteria for the subdivision, use, and development of shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of water and related land resources of the state. This context is critical for properly evaluating the facts against the practical difficulties criteria.

Unique circumstances are physical characteristics of the land such as lot shape, lot dimension, and buildable area that are rare compared to other nearby shoreland properties. Personal matters unrelated to the property such as family needs, design preferences, and financial considerations are not unique circumstances. This lot is peninsula-shaped and surrounded by water on three sides which is fairly

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unique; however, there are similar properties on MN Point. This configuration appears to make it impossible to construct a new residence while meeting all required setbacks. While I acknowledge this constraint, it appears that design preferences are largely driving the request and result in additional encroachment within the shore impact zone. I did not find facts or evidence that suggest otherwise in the application.

It appears it would be feasible for the design to be modified to reduce encroachment in the shore impact zone. The applicant stated *“There are currently two structures on the property that have a very similar footprint”* but I would consider the proposed footprint significantly larger than what currently exists. For example, the proposed residence is nearly 2.5x larger than existing. Two story homes are common on MN Point so a second floor could be added to the design to maintain the desired living space while reducing encroachment on the ground. A significantly larger single-story structure appears to be design preference, which does not meet practical difficulties.

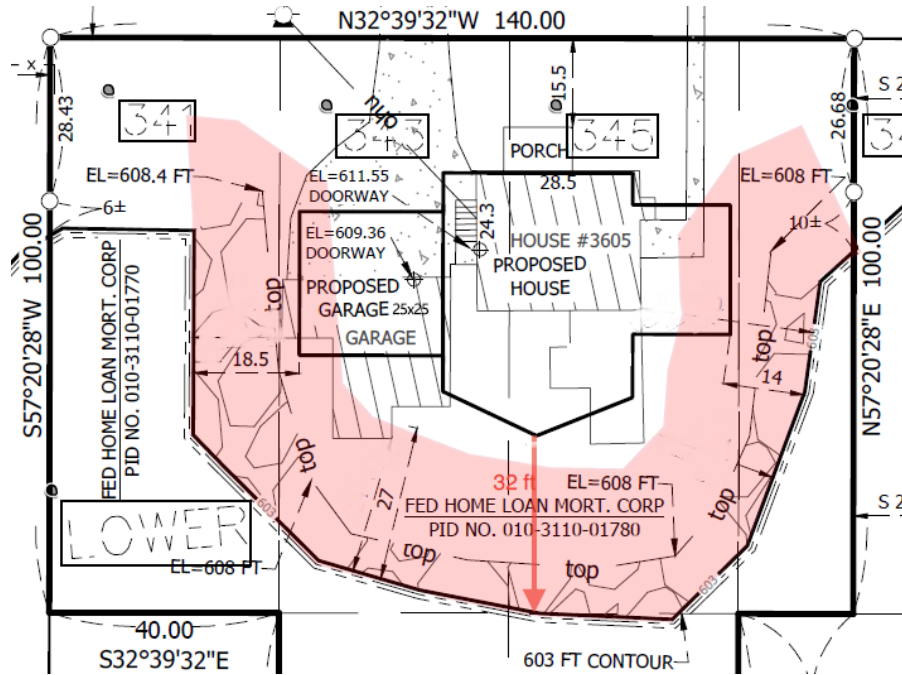
There is risk when building close to the shoreline. The Duluth Harbor is mapped as a floodplain by FEMA and the 1% annual chance base flood elevation for this location is 605 ft. Fluctuating water levels and storms can cause flooding, inundation, and erosion of shoreline development. The best way to protect development from these hazards is to locate it as far back from the shoreline as possible. There are many landowners in Duluth who are currently facing this challenge. Some are choosing to retreat, and others are going to significant lengths to protect their shoreline. Shoreline armoring is known to have negative effects on the environment and adjacent properties. Armoring is a short-term solution and should be used only to protect existing structures that cannot retreat. Because of this risk, I consistently recommend that no new structures be built within the shore impact zone.

The applicant has stated that the *“plans will greatly improve the runoff into the bay”* but this statement is not supported by facts. Local ordinance requires a 50 ft naturally vegetated buffer, and this proposal further encroaches and reduces vegetation within 50 ft of the OHWL. It is well understood that land conditions adjacent to water greatly influence water quality. Vegetation growing along the shore slows the movement of rainwater runoff, allows sediment to settle out, and water to infiltrate into the ground. Vegetation also helps remove pollutants before they reach the public water and its roots help reduce shoreline erosion. I appreciate that the applicant has modified the design from the original submittal to include more native vegetation in the shore impact zone; however, I still find new construction within the shore impact zone concerning.

Minn. Stat. 394.36, subd. 5(f) requires conditions of approval for variances on nonconforming shoreland lots to address stormwater management, reducing impervious surfaces, increasing setbacks, restoration of wetlands and vegetative buffers, and other conservation-design actions. **While I recommend denial, should this application be approved, I recommend the following conditions of approval:**

- Prohibit new construction within 25 feet of the OHWL (area shown in red in snip below). This could be accomplished by reducing the size or reconfiguring the layout of the proposed structure.
- Require that the applicant submit a shoreland mitigation plan that includes a minimum 25 ft wide buffer of native vegetation that shall be maintained in perpetuity.

- Require that the applicant submit site drainage details that show runoff will be directed to a vegetated area outside the shore impact zone.



State rule and your ordinance require that final variance decisions, including findings, be sent to the DNR within 10 days of decision. DNR monitors local government variance decisions and may appeal decisions we believe do not meet the statutory criteria and result in negative impacts to shorelands and public waters.

I would also like to take this opportunity to note that any alterations below the OHWL, including placement of riprap, may require a public waters work permit from DNR. The applicant should contact me prior to undertaking shoreline work to determine whether a DNR permit is required. If you have any questions, please contact me.

Sincerely,

Bri Speldrich  
 MN DNR Area Hydrologist – Duluth  
[Brianna.speldrich@state.mn.us](mailto:Brianna.speldrich@state.mn.us)  
 218-302-3246

c: DNR EWR R2 East District Manager  
 DNR EWR Shoreland Program Manager

8/9/24

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**RE: April Pending Items Notice**

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**From** Speldrich, Bri (DNR) <Brianna.Speldrich@state.mn.us>  
**Date** Tue 3/31/2026 2:21 PM  
**To** Christian Huelsman <chuelsman@DuluthMN.gov>  
**Cc** Bentley, Cliff (DNR) <cliff.bentley@state.mn.us>; MN\_Ordinance Review (DNR) <ordinance.review.dnr@state.mn.us>

Hi Christian,

No problem! I am glad that Mr. Behlke was willing to make design modifications. I did have a chance to speak with him and the changes that have been made have addressed many of my concerns with this proposal.

Only two recommended conditions of approval from my previous letter still apply:

- Require that the applicant submit a shoreland mitigation plan that includes a minimum 25 ft wide buffer of native vegetation that shall be maintained in perpetuity.
- Require that the applicant submit site drainage details that show runoff will be directed to a vegetated area outside the shore impact zone.

I recommend that the Planning Commission consider including these items as conditions should they decide to grant approval.

Feel free to include a copy of this email in your staff report. I do not submit comments that recommend approval of variances (I either don't comment or I recommend denial), so I do not intent to draft another letter.

Thanks!

**Bri Speldrich**

Area Hydrologist | Carlton County & Duluth Metro  
Ecological and Water Resources

**Minnesota Department of Natural Resources**

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she/her/hers

[mndnr.gov](http://mndnr.gov)

