



Staff Report for PLVAR-2606-0018

Application Information:

Application Type: Variance from Shoreland Setbacks

Location of Subject: 3825 W 7th St

Legal Description: 010-0480-02880

Applicant: Gregory and Donna Kent

Applicant Contact:

Agent: Arrowhead Design and Drafting

Agent Contact: Ben Potter

Staff Contact: Jason Mozol, jmozol@duluthmn.gov

Deadline for Action:

Application Date: June 9, 2026

Date Extension Letter Mailed: June 26, 2026

60 Days: August 8, 2026

120 Days: October 7, 2026

Site Visit Date: May 29, 2026

Sign Notice Date: June 30, 2026

Neighbor Letter Date: June 23, 2026

Number of Letters Sent: 63

Proposal:

Applicant is seeking after the fact approval on a variance from shoreland setbacks for a shed and patio, and approval for a new garage, fence, and deck roof.

Recommended Action:

Staff recommends approval with conditions.

Zoning and Land Use:

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

Summary of Code Requirements:

Sec. 50-37.9.C. General Variance Criteria (paraphrased): Granting 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 practical difficulties.

Sec. 50-18.1.D. Coldwater Shoreland Setbacks (paraphrased): The setback is measured from the ordinary high-water level of the creek. Impervious surfaces (including gravel) must be setback 75 feet and structures must be setback 150 feet.

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 #2 Declare the necessity of undeveloped spaces #5 – Promote Reinvestment in neighborhoods –

This application allows a property owner to invest in their property, moves an accessory structure further from the Merrit Creek, and the mitigation will provide a better buffer along the creek.


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: The property is currently occupied by a single-family home built in 1910. Other structures on the property include two sheds, built in 2018 and 2022, and a gravel patio built in 2021.

Review and Discussion Items:

Staff finds:

1. Applicant is requesting a variance from shoreland setbacks to construct a garage, fence and, deck roof and approve the previous construction of a patio and shed.
2. A second existing shed on the west side of the property will be removed.
3. *Variance Criteria #1 (exceptional narrowness, shallowness, or shape):* This parcel is located immediately adjacent to Merritt Creek. The entirety of the parcel is within the structure setback and over two-thirds is within the impervious surface setback.
4. *Variance Criteria #2 (circumstances unique to the property, not created by the property owner):* This property was platted in 1889 and developed in 1910; both dates are prior to the establishment of shoreland standards.
5. *Variance Criteria #3 (circumstances are peculiar to this property and do not apply generally to other land or buildings):* Several properties in this neighborhood are similarly constrained by their location to the creek but the vast majority are not.
6. *Variance Criteria #4 (proposes to use in a reasonable manner not permitted by code):* Single-family homes often are accompanied by impervious outdoor spaces and accessory structures for parking or storage. The number and scale of the proposed patio and accessory structures is reasonable for this use.
7. *Variance Criteria #5 (will not impair light/air, increase congestion, or impair public safety or property values).* This request will not impair access to light or air, will not substantially impact traffic volumes or congestion in the area, and will not negatively impact public safety. The garage will be placed 50 feet from the edge of N 39th Avenue W; between the setback and the slope behind the garage, it will not impact sightlines at the intersection.
8. *Variance Criteria #6 (will not impair intent of this Chapter or alter the essential character of the locality).* The property will remain aligned with the character of the neighborhood where there are several nearby properties with garages, sheds, and outdoor landscaping. The proposed garage will be placed closer to the front of the property than neighboring properties to avoid impacts to the creek, but will not impact the essential character.
9. *Sec. 50-37.9.L. (Mitigation for shoreland impacts):* To mitigate shoreland impacts, the applicant proposes to implement a vegetated buffer area along Merritt Creek, plant native vegetation, remove invasive Japanese knotweed, and remove a shed that is within the structure setback, as shown on the mitigation plan. Staff finds this mitigation will improve the creek health over the existing conditions.
10. No public, agency, or City comments were received.

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11. Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit has 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 must be constructed and limited to the plans submitted with the application.
2. Work necessary to implement the shoreland mitigation must be completed within one year of this approval or prior to final approval for the completion of garage, whichever is later.
3. 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 review; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



Planning & Development Division
Planning & Economic Development Department

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Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and will be shared with the Planning Commission during their review. You may fill out this form, or attach your information in a separate letter. This information will be shared with the Planning Commission in order to help them determine the appropriateness of the variance application and request.

List the UDC Section you are seeking relief from (example: "50-14.5 - front yard setback in an R-1"):

50-18.1

Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:

THE MN DNR MARKED THE OHWL OF THE MERRIT CREEK IN TWO PLACES ON THE PROPERTY SEEKING A VARIANCE. THE EXISTING: HOME, DECK, SHEDS, DRIVEWAY AND GRAVEL FIRE PIT ARE WITHIN THE SHORELINE IMPACT ZONE. ALL OF THOSE STRUCTURES AND A PROPOSED NEW GARAGE, FENCE AND ROOF OVER THE EXISTING DECK ARE WITHIN THE 150'-0" SHORELINE SETBACK.

Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:

RELIEF IS BEING SAUGHT, BECAUSE THE SHORELINE 150'-0" SHORELINE SETBACK AS MEASURED FROM THE OHWL IS BEYOND THE ENTIRE PROPERTY, AND IN PART BEYOND THE CITY CURB & GUTTER.

Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:

THE SPECIAL CIRCUMSTANCE THE IS CREATING THIS HARDSHIP IS THE MERRIT CREEK MAKES A SHARP BEND TO THE EAST. THE BEND EXTENDS INTO THE PROPERTY SUCH THAT IT VIOLATION OF THE UDC.

Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:

THE APPLICATION PROPOSED IS FOR TWO REASONS. 1. THE EXISTING PRIMARY STRUCTURE AND ALL OF THE SECONDARY BUILDINGS (SHED), INCLUDING THE LANDSCAPING AND DRIVEWAY ARE WITHIN THE SHORELINE IMPACT ZONE. 2. THE PROPOSED NEW GARAGE, FENCE AND ROOF OVER THE EXISTING DECK ARE WITHIN THE SHORELINE SETBACK. THE APPLICATION IS TO GIVE RELIEF THE UDC 50.18-1 SO THE PROPERTY WILL BE CONFORMING.

Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:

THIS IS A BEAUTIFUL PROPERTY; IT IS WELL GROOMED LANDSCAPE WITH NATIVE PLANTINGS. A 1.5 STORY HOME, AND SHED ARE PLEASING TO THE EYE. THE PROPOSED GARAGE IS A TYPICAL 2.5 CARAGE. THE FENCE IS A OPEN BOTTOM POST AND RAIL. THE POLYCARBINATE ROOF WILL FILTER SUNLIGHT TO THE EXISTING DECK. NONE OF THE EXISTING STRUCTURES NOR THE PROPOSED IMPROVEMENTS ARE LARGER THAN TYPICAL. THE APPROVAL OF THE VARIANCE WILL MAKE THE EXISTING PROPERTY CONFORMING AND ALLOW FOR THE PROPOSED CHANGES. THIS WILL INCREASE THE VALUE OF THIS PROPERTY AS WELL AS OTHER AROUND IT. THIS IS A TYPICAL RESIDENTIAL HOME & GARAGE.

Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:

IF THE VARIANCE IS PASSED IT WILL NOT IMPAIR THE INTEND OF THE ZONING CODE NOR THE OFFICIAL ZONING MAP BECAUSE THE EXISTING PROPERTY WILL BE UNCHANGED OTHER THAN TO BECOME CONFORMING. THE ESSENTIAL CHARACTOR OF THE NEIGHBOR HOOD ALREADY HAS THE HOME WITH GARAGES, FENCES, DECKS AND SHEDS. THIS APPLICATION IS ONLY SEEKING THE VARIANCE BECAUSE WITHOUT IT, THE PROPERTY IS NON-CONFORMING.

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?

THIS APPLICATION DOES NOT NEED TO MEET ANY OF THE CRITERIA IN UDC SECTION 50-37.9, SUBSECTIONS D THROUGH M, E, F, H, I, K NOR M.