



**CITY OF DULUTH**

Community Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PI16-111	<b>Contact</b>	Kate Van Daele	
<b>Type</b>	Variance, Shoreland	<b>Planning Commission Date</b>	October 11, 2016	
<b>Deadline for Action</b>	<b>Application Date</b>	August 31, 2016	<b>60 Days</b>	10/30/2016
	<b>Date Extension Letter Mailed</b>	Sept 26, 2016	<b>120 Days</b>	12/29/2016
<b>Location of Subject</b>	3710 94 <sup>th</sup> Ave West			
<b>Applicant</b>	Cory & Sancia Tondryk	<b>Contact</b>	218-343-5809	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	Lot 0008 Block:004 010-4060-00430 & 010-4060-00420			
<b>Site Visit Date</b>	September 27, 2016	<b>Sign Notice Date</b>	September 27, 2016	
<b>Neighbor Letter Date</b>	September 26, 2016	<b>Number of Letters Sent</b>	26	

**Proposal:**

The applicant proposes construction of a 20' x 20' addition onto the side of the applicants current 600 square foot home. The home is currently within the 150' shoreland setback area from Stewart Creek. In order to proceed with the addition, the applicant has applied for a Shoreland Variance due to the closest corner of the addition is 141' from Stewart Creek. The minimum shoreland setback is 150'. The applicant is in need of an addition to give his family of five more space. The current home is 600 square feet, has one bathroom which is in the basement, one actual bedroom and a loft which serves as a sleeping space for two of the applicant's daughters. This addition would bring much needed relief and personal space to the family.

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

**Summary of Code Requirements**

Section 50-18.1. (D) – Minimum Shoreland Area Standards: maintain a 150' setback from cold water streams and rivers.

Section 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 of the 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 a landowner is proposing to use the property in a reasonable manner, b) that the need for relief from 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 Comprehensive Plan.

Section 50-37.9.D. – Variance Procedures "The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9 C-M..."

Section 50-37.9.L. – Standards for the Variance 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):**

Traditional Residential Future Land Use: Characterized by grid or connected street pattern, house orientated 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 and neighborhood extensions, and new traditional neighborhood areas.

Shoreland setback rules were introduced in the UDC in 2010, as a replacement for the Water Resources Management Ordinance (WRMO). The WRMO limited impervious surface as a way to reduce water run-off, sedimentation of the water ways and increase the temperature of cold-water streams, which is detrimental to trout.

**Review and Discussion Items**

Staff finds that:

- 1) The applicant seeking a shoreland variance to build a 20' x 20' addition on the north side of their home. The closest corner to the addition according to the applicant is 141' from Stewart Creek, which is a cold-water trout stream.
- 2) The home was built in 1921 and is 616 square feet. The lot size is 24' x 140' of which they purchased the adjoining lot which is the identical lot size as the one that their current home is located on in hopes that they could obtain financing to build an addition. The applicant has obtained a loan from their bank at the end of August and are now in a position to build the addition, which they would like to do before the winter.
- 3) Currently, the applicant has one bathroom in the basement. With the addition, the goal would be to bring the bathroom upstairs where the kitchen currently is, move the kitchen to the new addition as well as create two new bedrooms for the applicants 15 and 12 year-old daughters.
- 4) According to the applicant, this home is by far the smallest on the block, and would be the last home to be updated and therefore increase the property value not only for the applicant, but also for their neighbors.
- 5) In 2012, the applicant added an 8 x 14 second floor loft to the property PL12-063.. This was a side yard setback variance.
- 6) In reviewing the applicant's site plan, staff created a map of where the addition would go, and a more accurate line of how far the closest corner is to Stewart Creek. The closest line to the creek would be go through their neighbor's deck and garage, staff recognizes that the distance would be between 148' and 157' feet to the creek.
- 7) According to the map, two of the applicant's neighbor's homes are within 50' feet from the creek, and were created long before shoreland setbacks were created.

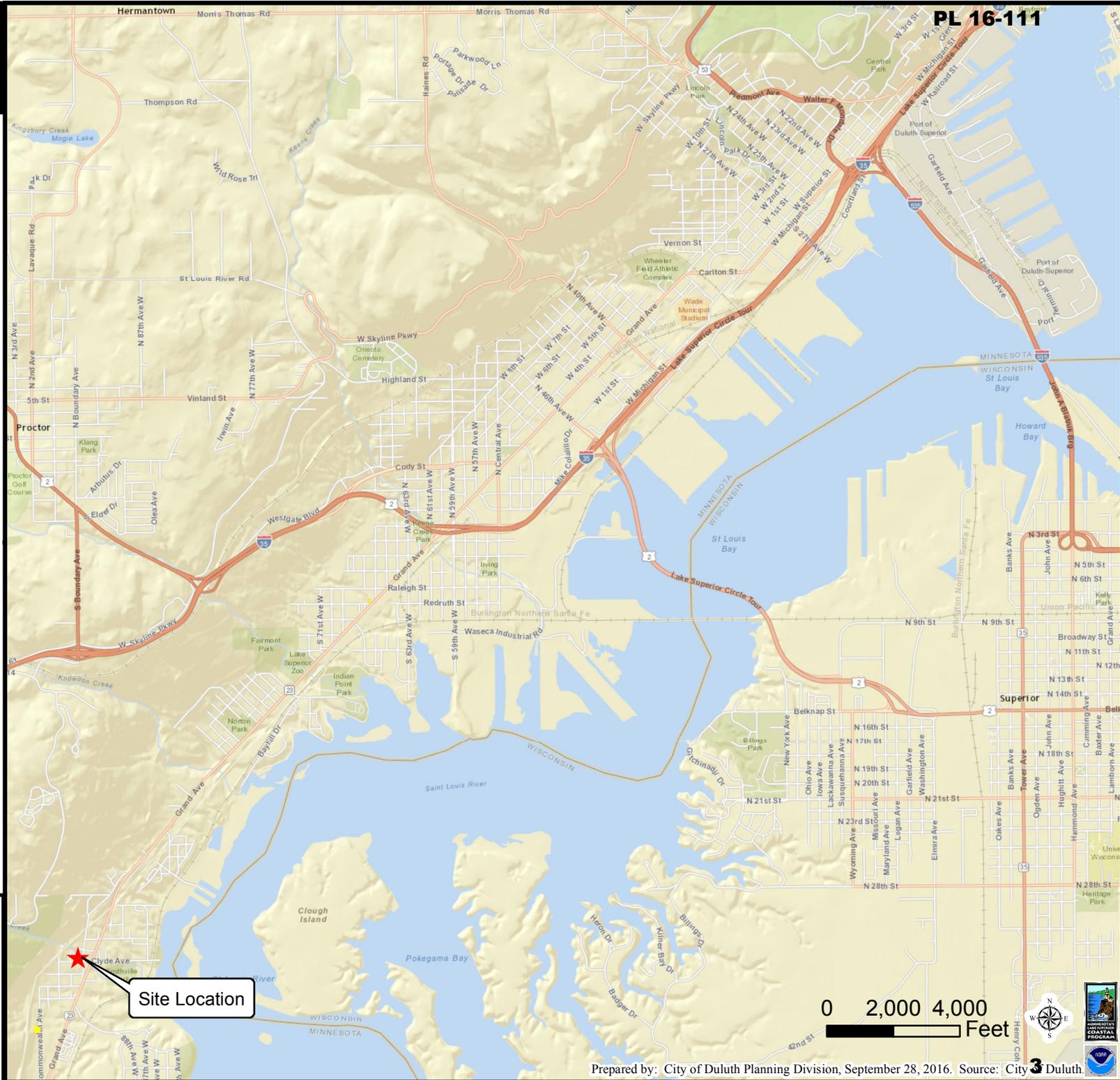
**Staff Recommendation:**

Staff approves the proposal with the following conditions:

- Merge the two parcels into one by going through the St. Louis County assessor's office. Both parcels should be joined and listed as parcel number 010-4060-00430; and,
- With the addition of the home, staff requests that the applicant remove any personal affects into the house or garage instead of being left out in the open.

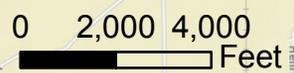
**Legend**

★ Site Location



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.

Site Location



**Legend**

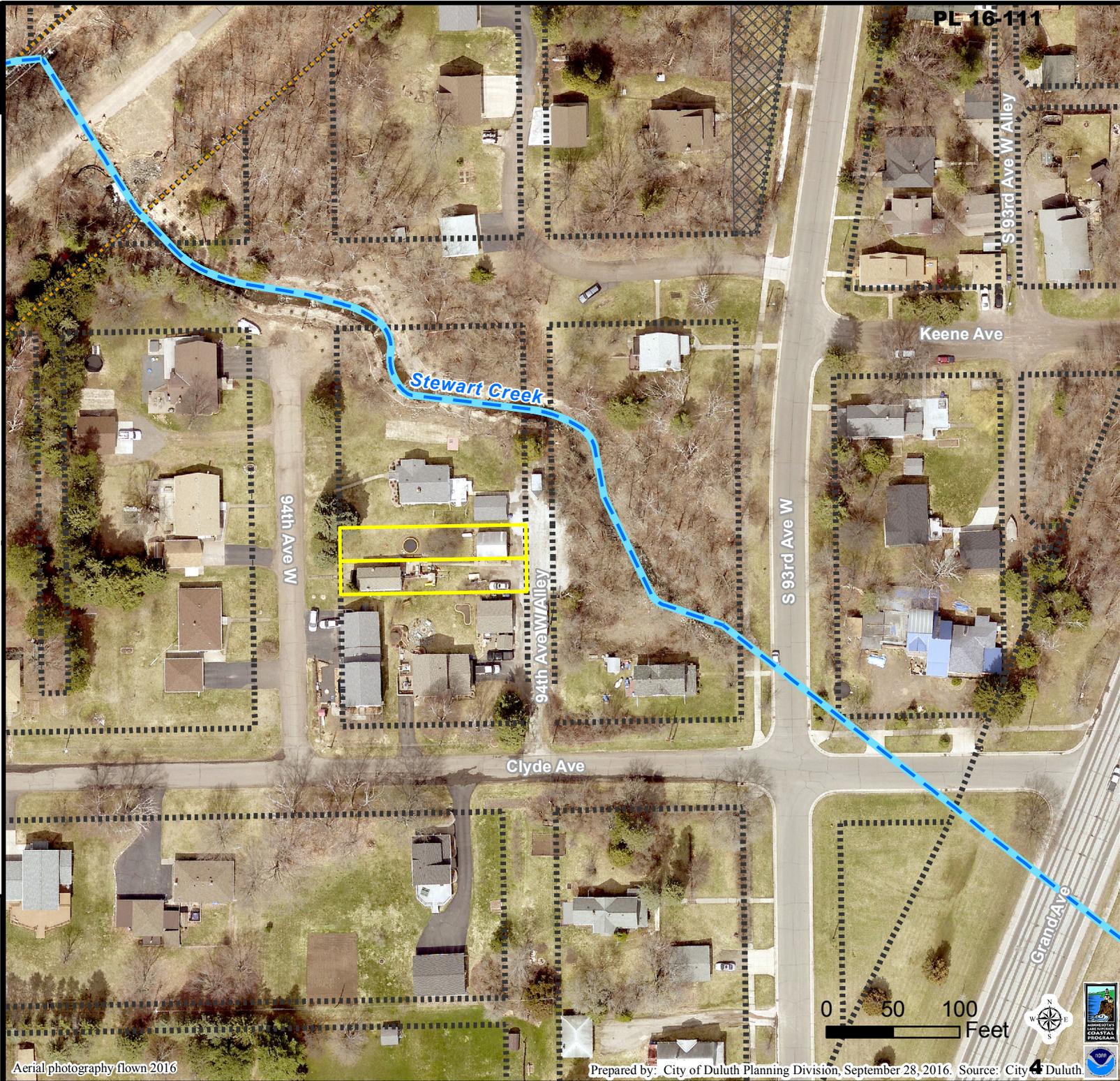
-  Property Line
-  Trout Stream (GPS)
-  Other Stream (GPS)

**Right-of-Way Type**

-  Road or Alley ROW
-  Vacated ROW

**Easement Type**

-  Utility Easement
-  Other Easement



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**Legend**

-  150' Buffer
-  Property Line

**Duluth Streams**

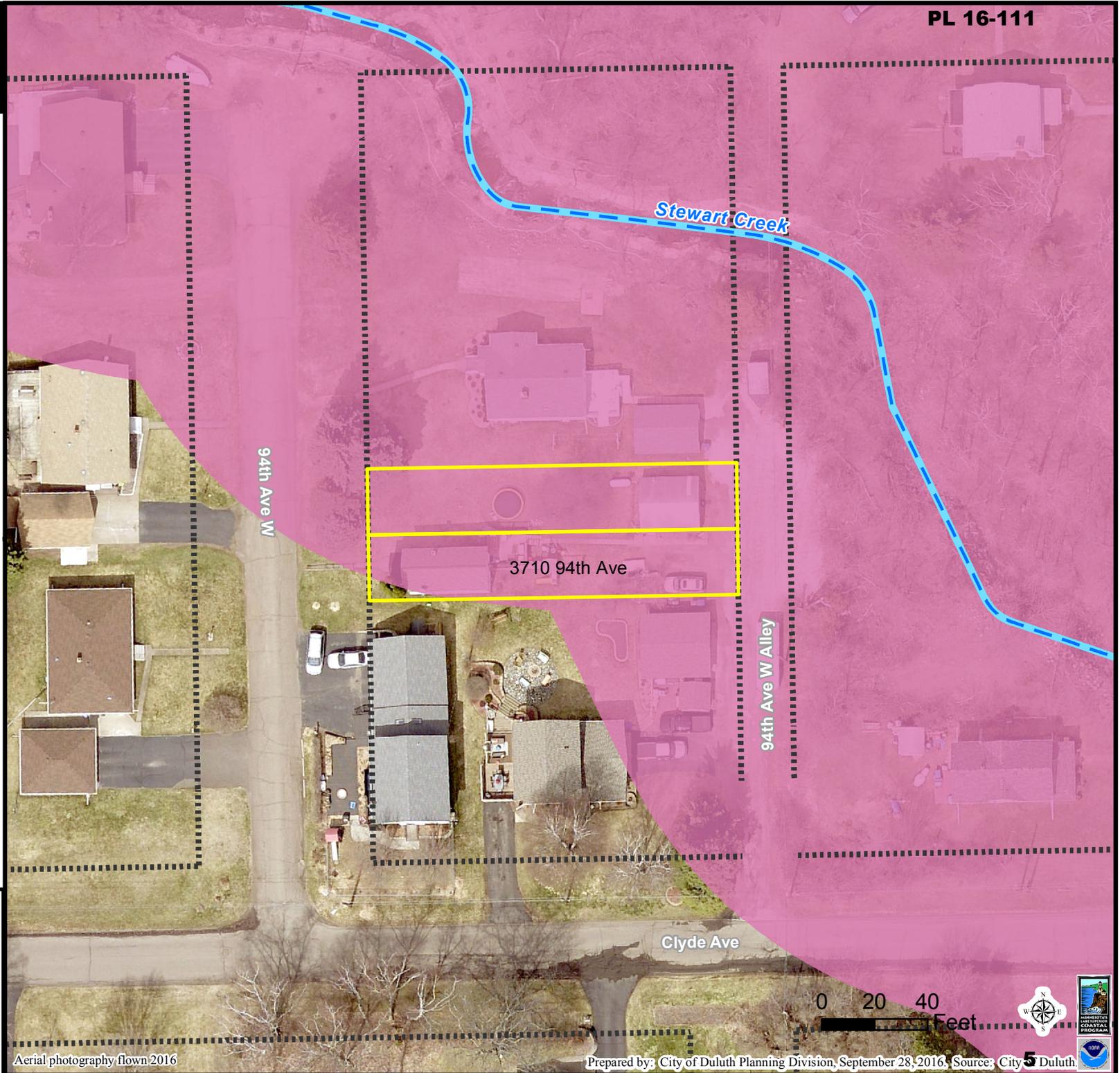
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**Legend**

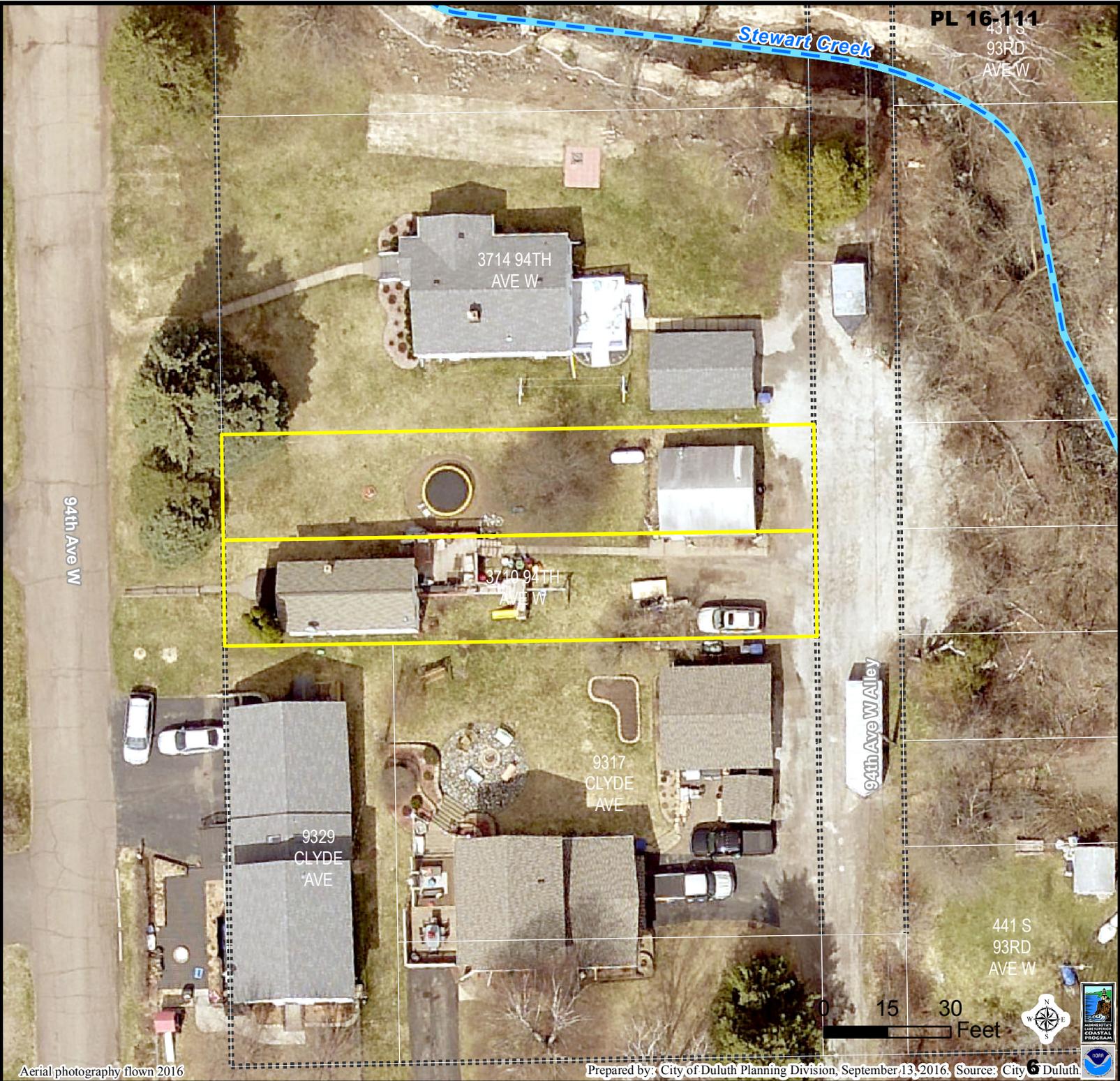
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**Right-of-Way Type**

-  Road or Alley ROW
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Aerial photography flown 2016

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**PL16-111 Tondry Shoreland Variance Site Plan**



**Full house including side of the home that they are requesting the addition on.**



**View from the front of the home.**



View from the back of the home.



One of the neighbors homes.



Home to the South of the Tondryk's.



Neighbors home across the street.



Home directly to the North of the Tondryk's.



City of Duluth  
Planning and Construction Services

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PL16-111 **RECEIVED**

AUG 31 2016

**CONSTRUCTION SERVICES  
AND INSPECTIONS**

**APPLICATION COVER SHEET**

**Check One Box**

- Accessory Home Share - \$25
- Appeal to Planning Commission - \$350
- Concurrent Use of Streets Permit - \$700
- District Plan Adoption or Amendment - \$1,000
- Environmental Review (EAW or EIS) - \$2,500
- Historic Construction/Demolition - \$50
- Historic Resource Designation - \$75
- Interim Use Permit \$650
- Planning Review - \$800
- Sidewalk Use Permit New Permit - \$150
- Sidewalk Use Permit Renewal Permit - \$75
- Special Use Permit General - \$800
- Special Use Permit, Wireless Telecommunications\*
  - Modifying or Co-locating - \$2,500\*
  - New Facility or Tower - \$5,000\*
  - Escrow Deposit - \$8,500\*
- Subdivision Plat Approval or Amendment:
  - Concept Plan - \$250
  - Preliminary Plat - \$1000
  - Final Plat - \$750
  - Minor Subdivision/RLS - \$400
  - Plat Amendment or Boundary Line Adjustment - \$250
- Temporary Use Permit - \$150
- UDC Zoning Map (Rezoning) Amendment - \$800
- Vacation of Street or Utility Easement - \$700
- Variance - \$600
- Wetland:
  - De Minimus, Delineation, or No Loss - \$150
  - Replacement Plan - \$400
- Zoning Verification Letter - \$85

**CONTACT INFORMATION:**

Applicant/Owner Tondryk, Cory + Sancia  
 Phone 218-343-5809 Email turdy3@outlook.com  
 Address 3710 94TH AVE W.  
 City DULUTH State MN Zip 55808  
 Owner's Agent (if applicable) \_\_\_\_\_  
 Phone \_\_\_\_\_ Email \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**APPLICATION INFORMATION:**

Street Address and Zoning of Property 3710 94TH AVE W. (R1)  
 Parcel ID Number 010-4060-00430 + 00420  
 Describe the Reasons for this Request (Attach Additional Pages if Necessary):  
Variance for addition due to proximity to creek.

The undersigned hereby represents upon all of the penalties of law for the purpose of inducing the City of Duluth to take the action herein requested, that all statements herein and attached are true and that all work herein mentioned will be done in accordance with the Ordinances of the City of Duluth and the laws of the State of Minnesota. Undersigned also understands that all documents provided to the City may be considered public data, per Minnesota Government Data Practices Act.

*Sancia Tondryk*  
 Signature of Applicant

8/31/16  
 Date

**Reminder:** include application checklist and all supporting information, including pre-application verification (if applicable). Submit completed information to Room 210, One Stop Shop.

\*Special Use Permit Checklist required to be submitted with this application coversheet and fee.

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CONSTRUCTION SERVICES  
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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 that is necessary for Planning Commission review.

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

50-18.1 section D3 - Reducing Shoreland setback

Is the applicant proposing to use the property in a reasonable manner? Yes No

Please explain the applicant's use of the property, and how the relief requested is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant: Single family, residential. The relief is ~~needed~~ necessary

to: The home was built in 1931 + does not conform with today's ordinances. There is only 1 bathroom. It is located in the basement with no egress windows. The home was built too close to the south property line + within the setback of Stewart creek. Also, this home was built less than 5 feet off the property line on the street (west) side. We cannot build off the back of the home without disrupting the existing sewer + it would not conform to the neighborhood. This would also make the home

Is the need for relief due to circumstances unique to this property?  Yes No awkward + uncomfortable

Please explain how these circumstances are due to exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property:

please see above. Property lots are long + narrow. The house is built in a lower deeper recess than other properties. The home was built too close to all property lines + is exceptionally narrow + small.

Will granting this variance alter the essential character of the area?  Yes No

Explain how this property fits the character of the neighboring area, and how the special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity:

This is the last home in the area to be updated. It sticks out like a sore thumb

## Tondryk addition:

We need this addition, our family has grown to five. This is one reason of many for the addition. Our Children are of age to have rooms of they're own. Our present home doesn't allow for that to happen as it is a 1 bed loft with none conforming bathroom in the basement no others within the home. The addition will house 2 more beds and a new kitchen on the 1<sup>st</sup> floor and the old kitchen will be new home for the main floor bathroom. The loft will be a small room with the stairs to the 3<sup>rd</sup> level and that will be for attic storage. The new second level will have the 2 bed rooms needed for our teenage daughter and our almost teenage daughter and our 2 year old. Existing bed room will not change as our bedroom. So the house will then be big enough for our family to have space and privacy. As well as become conforming. The addition will make our home more conforming to the neighborhood. We are the last of the homes to be updated within this neighborhood. I will attach the plans so the break down makes more sense to you. Without this addition we will have to move out of this neighborhood and that's what we're trying to avoid as we love this spot and location, younger families with children have moved into the area which is great for our children to have friends and grow.

## Over view of breakdown of old home and new addition

: OLD

Shared basement and bathroom

1<sup>st</sup> floor kitchen and living room/dinning

2<sup>nd</sup> floor is 1 bed and loft

: NEW

Basement

1<sup>st</sup> floor kitchen and formal dining room

2<sup>nd</sup> floor 2 bed rooms

3<sup>rd</sup> attic storage space with possible change to master bedroom in future if allowed.

: Changes that will be done in new

1<sup>st</sup> floor bathroom in place of existing kitchen

2<sup>nd</sup> floor loft size reduced to allow for staircase to 3<sup>rd</sup> floor possibility of a ¾ bath if room is available in future.

# Site Sketch Form

PL 16-111

The sketch is to graphically illustrate your proposed project(s)

## Draw and Label on Sketch (in feet)

- \*All Structures on the Property and Dimensions
- \*All Driveways, Access Roads, and Wetlands
- \*All Proposed Structures and Dimensions

- \*Distance of Proposed Structures to Shoreline (Closest Point)
- \*Distance of Proposed Structures to Septic System and Tank
- \*Distance of Proposed Structures to Property Lines
- \*Distance of Proposed Structures to Road Centerline and Right-of Ways

You may submit your own site sketch **IF** it has the required information indicated above.

**RECEIVED**

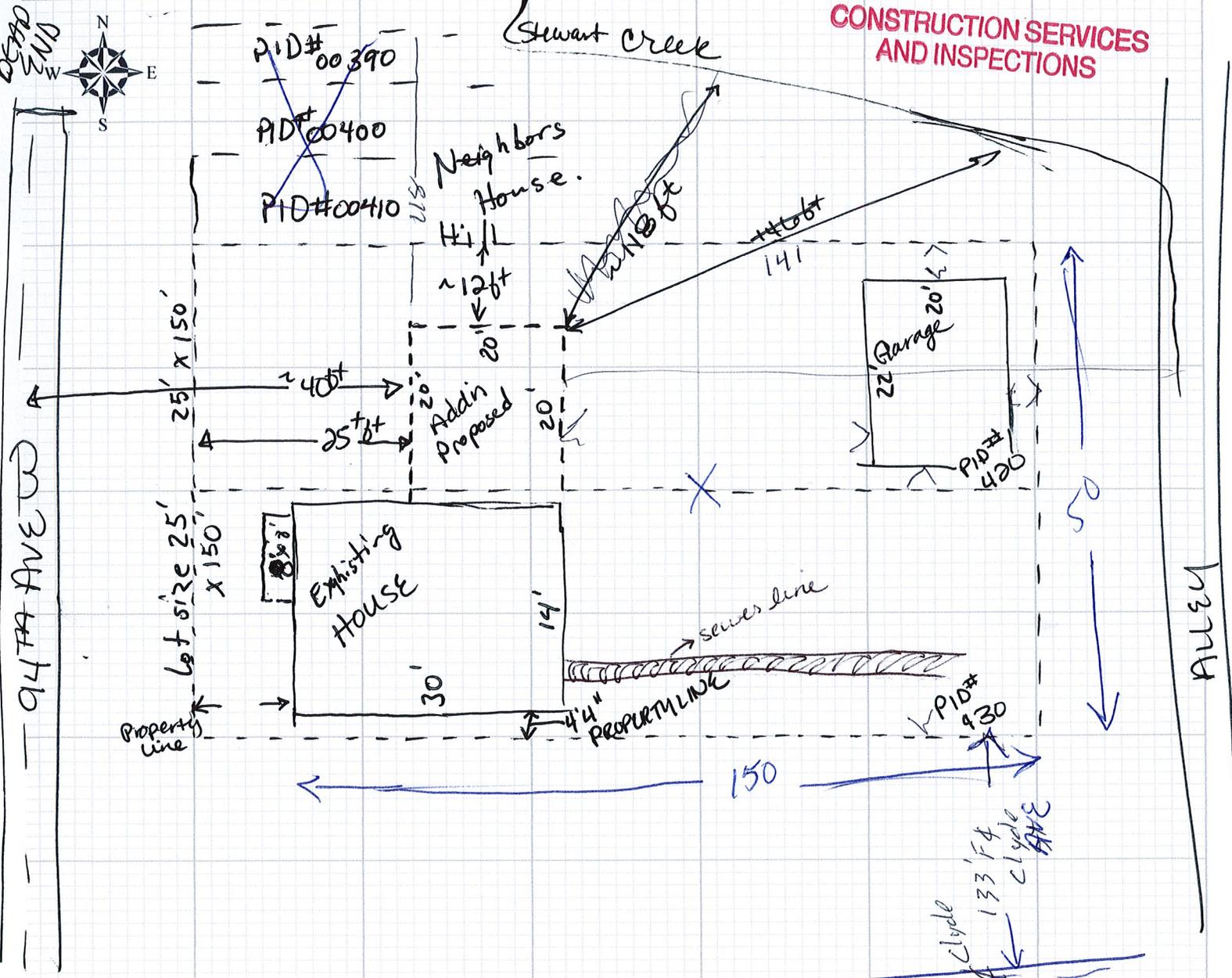
AUG 31 2016

\*Applicant Name:

\*Site Address:

\*PIN:

**CONSTRUCTION SERVICES AND INSPECTIONS**



**\*\*\*Sanitary Authority Use Only\*\*\***

**Sanitary Review:** (To be determined by appropriate sanitary authority.)

Will the proposal, as shown above, negatively impact the SSTS/sanitary line or replacement area?  Yes  No

**Sign off:**

Signature \_\_\_\_\_ Title \_\_\_\_\_



# Variance

## Worksheet St. Louis County, Minnesota

**About** A variance allows the use of property in a manner otherwise forbidden by a zoning ordinance by varying one or more of the performance standards such as lot size, setbacks, etc.

Variations from official zoning controls are defined under Minnesota Statutes 394.27 and require the landowner to prove that the property could not otherwise be used or enjoyed in the proposed way by complying with ordinance requirements and that there will be no negative impact on surrounding properties.

It is advisable that you discuss your request with Planning and Community Development staff prior to submitting the application. Approval or denial of your request is dependent on the justification you provide in answering the questions on this application. For more information, check out our website at: [www.stlouiscountymn.gov/VarianceRequired](http://www.stlouiscountymn.gov/VarianceRequired)

### APPLICANT

Applicant Name (Last, First)

Jondryk, Cory + Sancia

### VARIANCE REQUEST *Complete this form along with the Land Use Permit Application*

1. Describe what you are varying from and the situation that makes it difficult to comply with county ordinances?

The home was built in 1921 & does not conform with today's ordinances. There is only 1 bathroom, it is located in the basement with no egress windows. The home was built too close to the south property line and within the setback of Stewart creek. Also, this home was built less than 25 feet off the property line on the street (west) side. We can not build off the back of the home, this would disrupt the existing sewer & would not conform to the neighborhood. This would also make the home awkward & uncomfortable.

2. Describe the intended/planned use of the property.

Single Family, residential

3. Describe the current use of your property.

Single Family, residential

4. Describe other alternatives, if any.

This is what the planning commission suggested we do. "Best possible plan"

5. If approved, how will the proposed use, with the variance, fit into the character of the neighborhood/area?

This is the last home in this area to be updated. It sticks out like a sore thumb.

6. Describe how neighboring properties and the use of those properties will be impacted by the proposed use with the variance. PL 18911  
*There will be no negative impact on neighboring properties. We have consulted all neighbors & reviewed plans with all. They are all on board with this project. This will positively effect the values of the surrounding homes.*

7. Describe how negative impact to the local environment and landscape will be avoided.  
*Utilization of a "silt fence" during the construction phase will limit any impact on local environment.  
 After construction, we will install a garden to slow as part of the mitigation.*

8. Describe the expected benefits of a variance to use of this property.  
*The use of the house will broaden - a larger family could use the home. This is the only way that we can make this home marketable.*

9. Include additional comments that will clarify your request for the Planning and Community Development staff members and the Board of Adjustment.  
*Our home is located in a lower elevation than all surrounding homes. Therefore, the water runoff is minimal from our property. It only flows to the east side towards the alley. However, we will overcompensate by planting gardens wherever possible to avoid any runoff.*

**OFFICE USE ONLY**

Principal Structures	Principal Structure Additions	Accessory Structures	Accessory Structures Additions	Other
<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Lot Width <input type="checkbox"/> Height Limit <input type="checkbox"/> 40% of Lot Width <input type="checkbox"/> 55% of Lot Width <input type="checkbox"/> Bluff <input type="checkbox"/> 2nd Principal Structure <input type="checkbox"/> % Lot Coverage <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> One Addition Allowed <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> 40% of Lot Width <input type="checkbox"/> 55% of Lot Width <input type="checkbox"/> Height Limit <input type="checkbox"/> Foundation from Lake <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Lot Width and/or Area <input type="checkbox"/> Height Limit <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> Bluff	<input type="checkbox"/> Shoreline Setback <input type="checkbox"/> Road Centerline Setback <input type="checkbox"/> Road Right-of-Way Setback <input type="checkbox"/> Property Line Setback <input type="checkbox"/> Allowable Size Exceeded <input type="checkbox"/> Height Limit <input type="checkbox"/> Lot width and/or Area	<input type="checkbox"/> Subdivision Plat <input type="checkbox"/> Exceeding Lot Coverage <input type="checkbox"/> Exceeding Maximum Buildable Area <input type="checkbox"/> Other Standard Not Listed (Explain below)

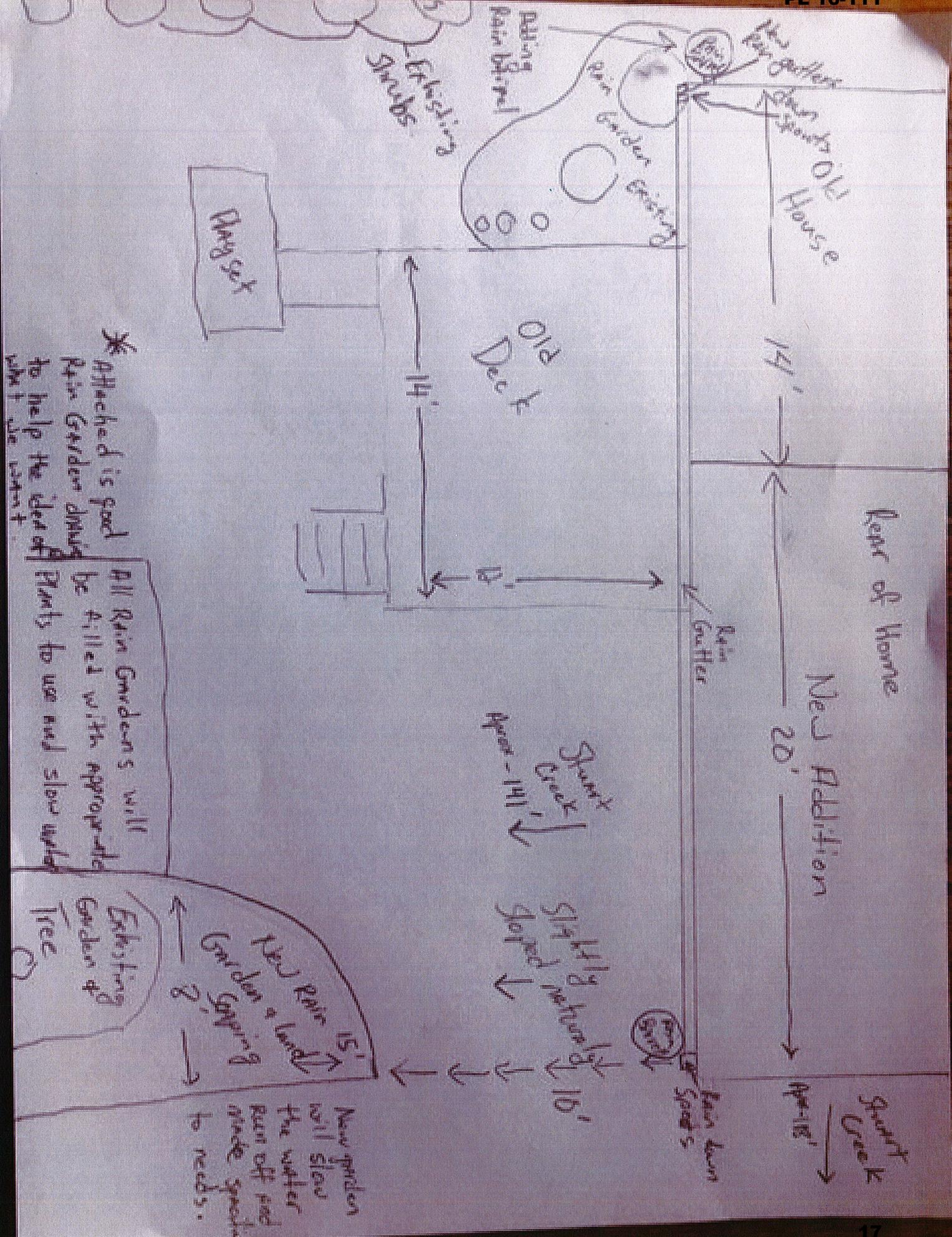
**CONTACT:** Planning and Community Development Department

**Technical Assistance**  
 Toll Free: 1-800-450-9777  
 Land Use Information  
[www.stlouiscountymn.gov/landuse](http://www.stlouiscountymn.gov/landuse)

**Duluth**  
 Government Services Center  
 320 West 2<sup>nd</sup> Street, Suite 301  
 Duluth, MN 55802  
 (218) 725-5000

**Virginia**  
 Northland Office Center  
 307 First Street South, Suite 117  
 Virginia, MN 55792  
 (218) 749-7103

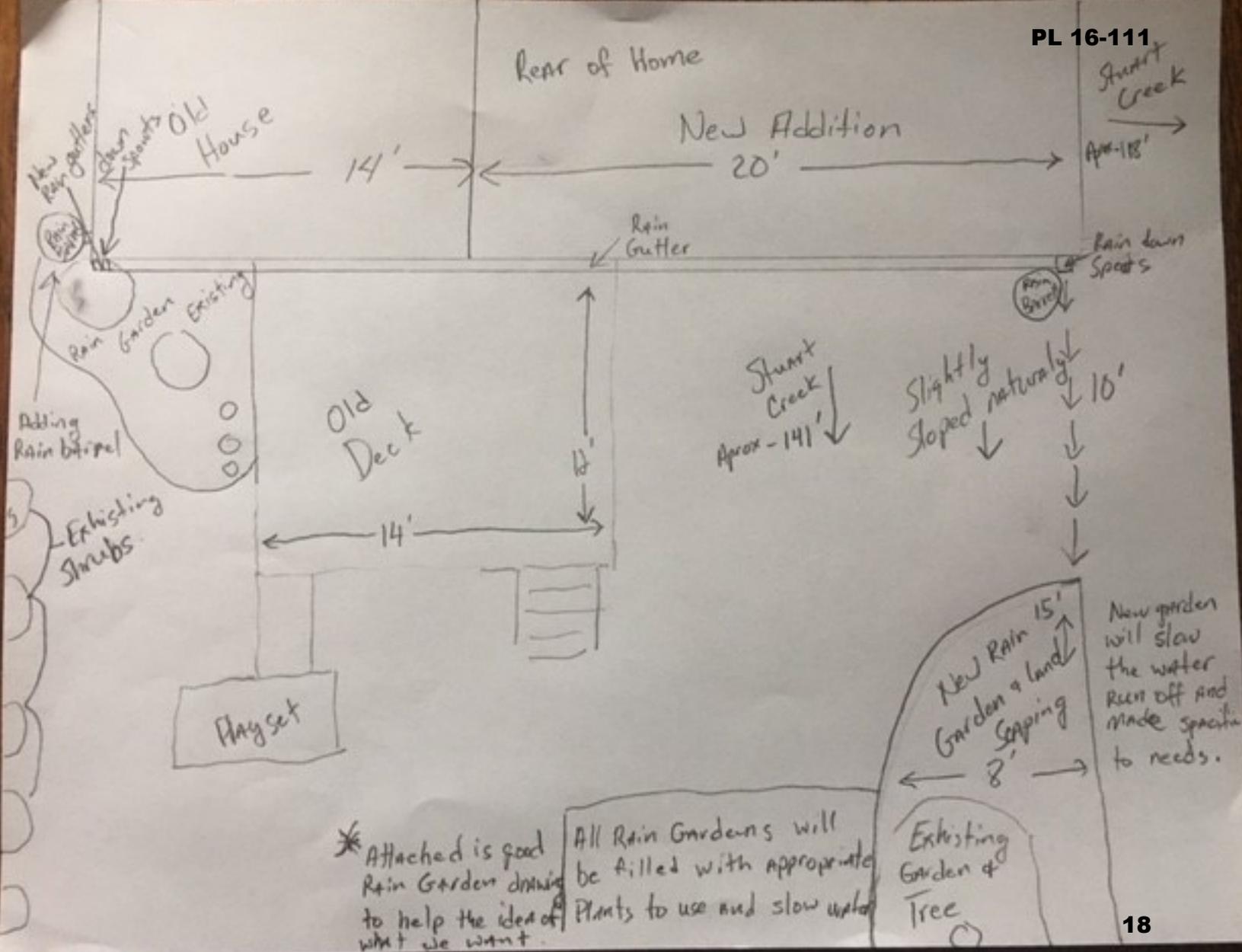
**Office Use Only**  
 Receipt # \_\_\_\_\_  
 Receipt Date \_\_\_\_\_  
 Payment Amount \_\_\_\_\_  
 Paid By \_\_\_\_\_



\* Attached is good Rain Garden design to help the idea of what we want

All Rain Gardens will be filled with appropriate plants to use and slow water

New garden will slow the water run off and make space to needs.



\* Attached is good Rain Garden drawing to help the idea of what we want.

All Rain Gardens will be filled with appropriate Plants to use and slow water