



City of Duluth

Council Chambers, City
Hall

Meeting Agenda Planning Commission.

Council Chambers

Monday, July 21, 2025

5:00 PM

Room 330

Special Meeting

CALL TO ORDER AND ROLL CALL

PUBLIC COMMENT ON ITEMS NOT ON AGENDA

PUBLIC HEARINGS

[PLASD-2507-0001](#) Appeal of Land Use Supervisor Determination

Attachments:

[Appeal Memo Final](#)

[Attachment 1 - Request to Appeal](#)

[Attachment 2 - Matson Appeal Documents](#)

ADJOURN



Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802

218-730-5580
planning@duluthmn.gov

MEMORANDUM

DATE: July 21, 2025
TO: Planning Commission
FROM: Natalie Lavenstein, Planner I
SUBJECT: Appeal of Land Use Supervisor Determination Regarding PLVAR-2502-0004

Appeal Information

1. UDC Sec 50-37.1.O-1.a
 - a. Any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of the UDC may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision by filing with the land use supervisor a written notice of appeal addressed to the commission and specifying the action being appealed and grounds of the appeal, and including the fee as established by the City's fee schedule.
2. UDC Sec 50-37.1.O-3.a
 - a. The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of the UDC to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the land use supervisor could have made regarding the application.

Land Use Supervisor Determination: On June 3, 2025, the City's Land Use Supervisor determined that appellant's proposed garage location is not consistent with Duluth City Code (UDC Sec 50-21.3) because the proposed location is "between a street and any façade of a primary building facing that street." See Attachment 1 for the proposed location of the garage.

Appellant's Request: The Appellant requests the Land Use Supervisor's determination be reversed because it misinterprets the applicable provisions of the UDC.

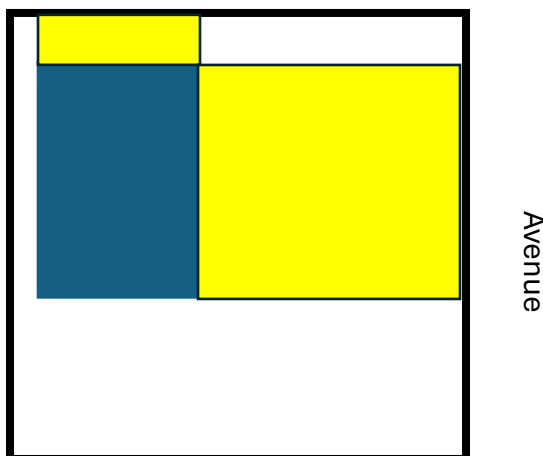


Note: In the appeal request, dated June 12, 2025, and received by the Planning Commission on June 13, 2025, Appellant framed the “Action Being Appealed” as a denial of a variance to build an accessory structure. The Planning Commission is responsible for reviewing and deciding variance applications, and the Land Use Supervisor did not deny Appellant a variance. Appellant’s counsel has clarified that the Appellant is challenging the above-described Land Use Supervisor decision.

Staff Finds:

1. While the single word, façade, is not defined in the UDC, the word façade is mentioned 251 times throughout the UDC. In these instances, façade is generally referred to as either the outermost/innermost building material or a specific side of a building i.e. front, lake side, etc. This, however, is a moot point as UDC Sec 50-21.3 clearly states that an accessory structure may not be located between a street and *any* façade of a primary building facing that street.
2. The subject property is a corner lot. According to UDC Sec 50-41.12, a corner lot is defined as, “a lot abutting upon two or more streets at their intersection.”
3. Since the word *any* is used in UDC Sec 50-21.3, it is clear that the garage may not be located between the front façade and 7th St nor the corner side facade and 2nd Ave E. See graphic below for a visual explanation of areas between building facades and neighboring streets.

Street



 Area Between House Façade and Adjacent Street



Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

4. The Land Use Supervisor, Planning Staff, and Planning Commission have been consistent in its interpretation and application of UDC Sec 50-21.3. Regardless of Planning Commission's decisions on the three examples listed below, a variance was determined necessary as the proposed location for the accessory structures were between any façade of the primary building facing a street.
 - a. PLVAR-2502-0002 711 Martha St
 - i. Request: To construct a garage in the corner front yard area between the existing corner side facade and the street.
 - b. PL 24-063 4404 London Rd
 - i. Request: To construct a garage in the front yard area between the existing front facade and the street.
 - c. PLVAR-2408-0004 1225 W 1st St
 - i. Request: To construct a shed in the corner front yard area between the existing corner side facade and street.

Conclusion:

1. In conclusion, the Land Use Supervisor maintains that UDC Sec 50-21.3 does not allow the proposed garage at 126 E 7th St to be located between the corner side facade and 2nd Ave E.

HANFT FRIDE
A PROFESSIONAL ASSOCIATION

DULUTH OFFICE:
1000 U.S. BANK PLACE
130 WEST SUPERIOR STREET
DULUTH, MINNESOTA 55802-2094
TELEPHONE: 218/722-4766
FAX: 218/529-2401

CLOQUET OFFICE:
1219-14TH STREET
CLOQUET, MINNESOTA 55720
TELEPHONE: 218/879-3333
FAX: 218/879-3201

☐ REPLY TO CLOQUET OFFICE

WWW.HANFTLAW.COM

EMAIL: ABE@HANFTLAW.COM

June 12, 2025

RECEIVED

JUN 13 2025

**CITY OF DULUTH
CITY CLERK'S OFFICE**

Planning Commission
c/o Land Use Supervisor
City of Duluth Planning & Development Division
411 West First Street, Room 160
Duluth, MN 55802

Re: Notice of Appeal from Land Use Supervisor Decision
Applicant: Pamela and Dennis Matson
Subject Property Address: 126 E 7th St. Duluth, MN 55805
File no. PLVAR-2502-0004
Our file no. 037230.000

WILLIAM M. BURNS
FREDERICK A. DUDDERAR, JR.
R. THOMAS TORGERSON*
CHERYL M. PRINCE*
ROBIN C. MERRITT*
JENNIFER L. CAREY*
MARK D. PILON*
JACOB J. BAKER*
SCOTT A. WITTY*
LEAH L. FISHER*
BRENT W. MALVICK
KIMBERLY E. BRZEZINSKI*
JOHN B. SCHULTE
HOLLY E. HALLER
JESSE W. SMITH
NATALIE M. MORIARTY
AMALIA B. ELLISON

RICHARD R. BURNS*, OF COUNSEL
CHARLES H. ANDRESEN, OF COUNSEL
*ALSO ADMITTED IN WISCONSIN

NOTICE OF APPEAL

Pursuant to Section 50-37.1.O of the Unified Development Chapter (UDC) of the Duluth City Code, I hereby submit this written notice of appeal of the Land Use Supervisor's decision dated June 3, 2025.

1. Action Being Appealed

This appeal challenges the Land Use Supervisor's decision to deny the Matson's application for a variance to build an accessory structure – a garage, on their property at 126 E 7th St. in an area zoned as R-2.

2. Grounds for Appeal

We believe this decision should be reversed because it misinterprets the applicable provisions of the UDC. Our position is that the proposed garage complies with all dimensional and setback requirements for accessory structures in R-2 districts, and nothing in the code prohibits its construction or requires a variance.

It is our position that the Matson's proposed garage does not necessitate a variance under the UDC. According to Table 50-21-1 in Section 50-21.3 of the code,

"No accessory structure may be located:

(a) between a street and any façade of a primary building facing that street."

The term "façade" refers to the front-facing exterior of the building. As the UDC itself does not define "façade" explicitly we turn to its dictionary definitions:

"The front of a building" (Merriam-Webster Dictionary)¹

"The face or front of the building toward the street.." (Oxford English Dictionary)²

The Matson's are seeking to build their garage along the side of the primary building – a house in this case, making its proposed construction between the side of the house and the street, not façade of the house and the street.

The front of the house faces 7th Street, in other words, the façade of the house faces 7th Street. The proposed garage would be constructed in a way that both it and the house maintain a parallel orientation to 7th Street. As such, the garage would *not* be between the front of the house and the street, nor would it encroach into the front yard, or interfere with the visual or functional relationship between the house and the street. Its orientation and placement clearly adhere to the requirements of the ordinance— as a matter of law, not a matter of planner discretion.

A more detailed explanation and supporting materials will be submitted to the Planning Commission prior to the scheduled public hearing. Additionally, our presentation will include testimony from a licensed architect, who will further clarify the compliance of the proposed construction with all applicable zoning standards.

3. Filing Fee

A check in the amount of \$479.00 is enclosed, in accordance with the City of Duluth's adopted fee schedule for appeal submissions.

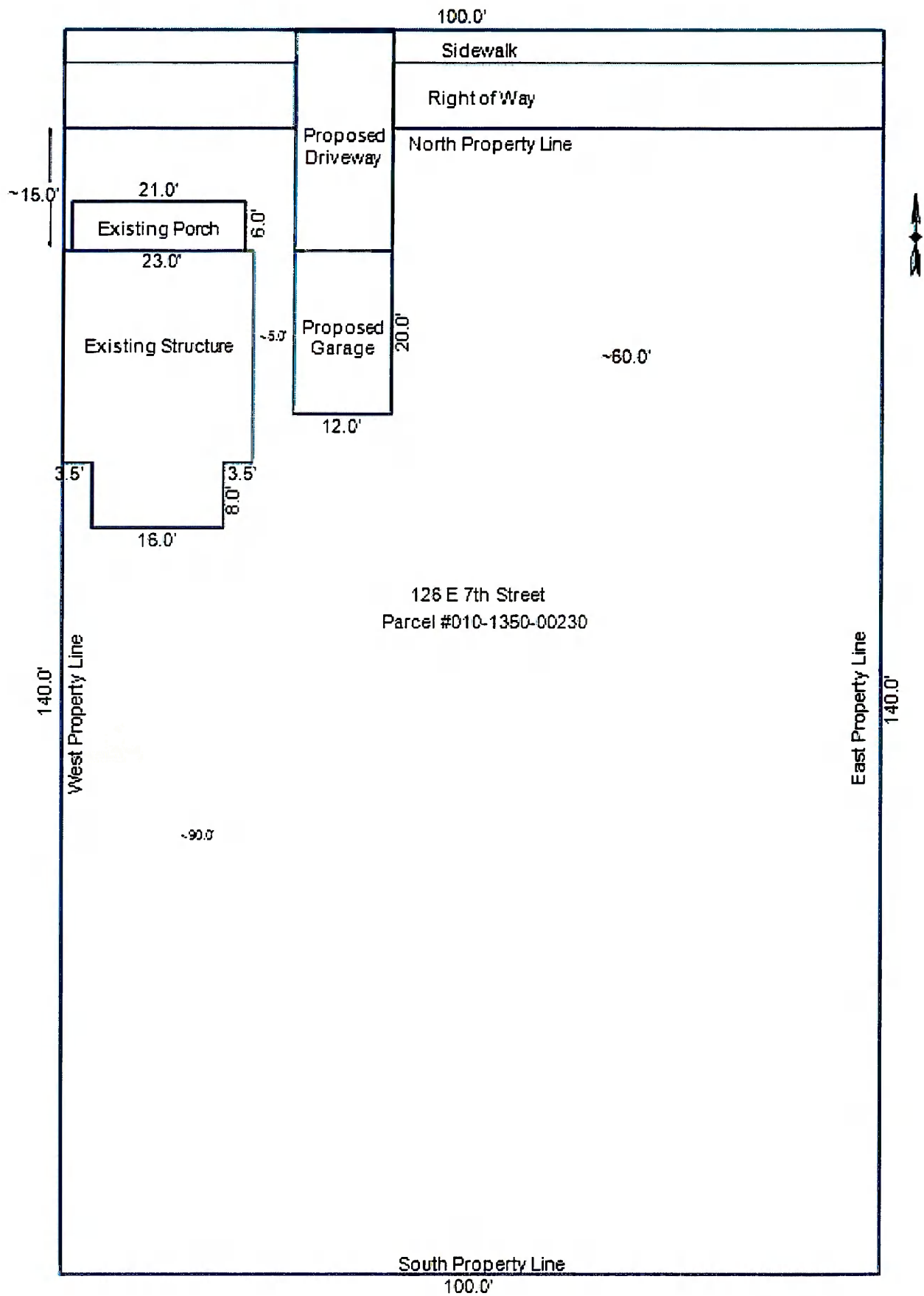
Respectfully submitted,



Amalia B Ellison

¹ <https://www.merriam-webster.com/dictionary/facade>

² <https://www.oed.com/search/dictionary/?scope=Entries&q=facade>



HANFT FRIDE
A PROFESSIONAL ASSOCIATION

DULUTH OFFICE:
1000 U.S. BANK PLACE
130 WEST SUPERIOR STREET
DULUTH, MN 55802-2094
TELEPHONE: 218/722-4766
FAX: 218/529-2401

CLOQUET OFFICE:
1219 -14TH STREET
CLOQUET, MN 55720
TELEPHONE: 218/879-3333
FAX: 218/879-3201

☐ REPLY TO CLOQUET OFFICE

WWW.HANFTLAW.COM

EMAIL: ABE@HANFTLAW.COM

July 14, 2025

WILLIAM M. BURNS
FREDERICK A. DUDDERAR, JR.
R. THOMAS TORGERSON*
CHERYL M. PRINCE*
ROBIN C. MERRITT*
JENNIFER L. CAREY*
MARK D. PILON*
JACOB J. BAKER*
SCOTT A. WITTY*
LEAH L. FISHER*
BRENT W. MALVICK
KIMBERLY E. BRZEZINSKI*
JOHN B. SCHULTE
HOLLY E. HALLER
JESSE W. SMITH
NATALIE M. MORIARTY
AMALIA B. ELLISON

RICHARD R. BURNS,* OF COUNSEL
CHARLES H. ANDRESEN, OF COUNSEL

*ALSO ADMITTED IN WISCONSIN

Planning Commission
Planner, Natalie Lavenstein
City of Duluth Planning & Development Division
411 West First Street
Duluth, MN 55802

Re: Appeal from Land Use Supervisor Determination File no. PLVAR-2502-0004

Dear Planning Commission:

We respectfully submit this appeal requesting reversal of the Land Use Supervisor's determination denying the Matsons' application to build a detached garage, as it rests on the misinterpretation and misapplication of the relevant provisions of the Unified Development Code (UDC), both in text and in a manner inconsistent with established zoning principles.

The Matsons' proposed garage at 126 E 7th St. Duluth, MN 55805, meets all applicable dimensional, height, and setback standards for accessory structures in the R-2 district. As we read it, nothing in the UDC prohibits the proposed construction or requires a variance under the circumstances presented.

The sole basis for the City's denial appears to be the application of Table 50-21-1, which states:

"No accessory structure may be located:
(a) between a street and any façade of a primary building facing that street."

However, the City's interpretation stretches the meaning of "façade" beyond what is supported by the text of the ordinance itself or the definition of the word itself. The UDC does not define the term "façade," as such dictionary definitions become instructive. Merriam-Webster defines "façade" as "the

front of a building,” and the Oxford English Dictionary similarly defines it as “the face or front of the building toward the street.”¹

This makes the “façade” of the Matsons’ home the portion of the house that *faces* 7th Street — its front. The garage, by contrast, would be constructed along the *side* of the house, maintaining the same parallel orientation to 7th Street as the house itself. As proposed, the garage would not be located between the front of the house and the street as prohibited by the code. Nor would it encroach into the front yard or interfere with the visual or functional relationship between the primary structure and the street. *See* attached plan.

But the City’s interpretation implies that any accessory structure located along the side of a home on a corner lot is automatically disqualified—even if it meets all other code requirements—because a street runs alongside it. This broad reading imposes burdens on corner-lot properties and risks rendering otherwise conforming structures nonconforming through arbitrary application.

This flaw is compounded when the City applies the same restrictive reading to lots consisting of multiple contiguous parcels. The fundamental issue with this interpretation is further illustrated by the Matsons’ specific lot configuration. They own two contiguous parcels (nos. 30 and 32) which make up their “lot” at 126 E. 7th St. *See* attached documents. Together the two parcels are being treated as a single lot pursuant to the UDC’s definition of “lot” as,

“a parcel of land, or a combination of contiguous parcels under single ownership...”

Parcel 32, the true corner parcel, is vacant. The Matsons’ residence is located entirely on Parcel 30, the interior parcel, and the garage as proposed would likewise be located solely on Parcel 30.

Nonetheless, the City’s interpretation applies corner-lot restrictions to the Matsons’ property because Parcel 32 abuts two intersecting streets. This approach imposes setback constraints on structures that are neither located on, nor oriented toward, the corner— despite the absence of any language in the code extending such restrictions based solely on lot configuration. Taken to its logical extreme, if a single owner held four contiguous parcels on a block, with a residence built entirely on the interior parcel (separated from the corner by multiple lots), the City’s interpretation would nevertheless impose corner-lot restrictions on the entire assemblage due to common ownership. Such a reading disregards parcel boundaries, defies conventional zoning principles, and imposes unwarranted burdens on property owners without textual support in the code.

Appended to this letter is the affidavit of Robert Fern, a licensed architect who has reviewed the relevant UDC provisions and supports the Matsons’ interpretation set forth above.

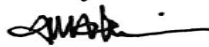
¹ <https://www.merriam-webster.com/dictionary/facade>
<https://www.oed.com/search/dictionary/?scope=Entries&q=facade>

July 14, 2025

Page 3

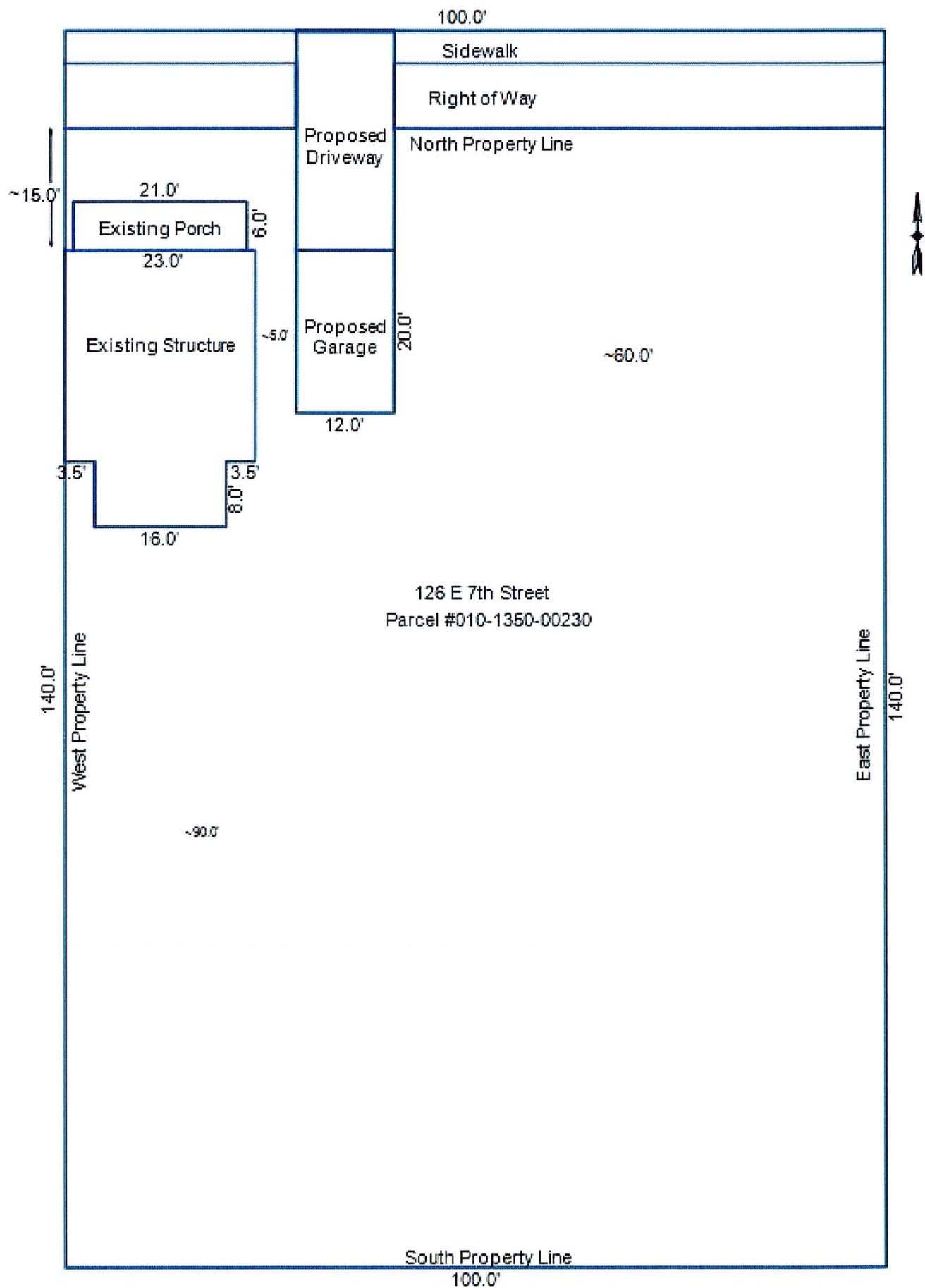
For the foregoing reasons, we submit that the Matsons' garage, as proposed, does not violate Section 50-21.3 or Table 50-21-1, and no variance is required for its construction. The administrative determination made by the Land Use Supervisor should be reversed accordingly.

Very truly yours,



Amalia B. Ellison

cc: Nick Anderson
Amanda Mangan
Pamela Matson



AFFIDAVIT

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

ROBERT W. FERN, states as follows:

1. I am a licensed architect and principal architect at an AIA accredited firm, RW Fern Associates, located in Duluth Minnesota, and make this affidavit based upon my personal and professional knowledge.
2. I regard zoning codes as a critical part of responsible development. They provide the necessary framework for coherence, function, and order.
3. Before any design work begins, I review the zoning code and building codes that apply to whatever I am working on. This is not an optional or occasional step—it is a foundational part for every project.
4. Because code research is such a crucial part of my job it is my professional responsibility to maintain a working knowledge of both the International Building Code and the local zoning ordinances to ensure compliance.
5. I was asked to consult by Pamela and Dennis Matson (“the Matsons”) regarding their proposed detached garage at 126 E 7th Street in Duluth, Minnesota. Specifically, they requested my professional opinion on the placement of the garage relative to applicable zoning requirements under the City of Duluth’s Unified Development Chapter (“UDC”).
6. In my professional opinion, the house’s north-facing façade is the only side that functionally and architecturally “faces” a street. The east wall of the home runs along the side of the property and does not function as a street-facing façade in any architectural or practical sense.


7. My reading of Table 50-21-1 is that it prohibits accessory structures, including detached garages, from being located between the street and the front façade of the principal structure. I believe the intent of this requirement was to prevent seeing only a garage (or other accessory structure) from the main street, not from all streets. This requirement is being interpreted into applying to sideyards (corner lot) configurations. This type of restriction reflects common residential planning practices, but is not what the Matson's are proposing here.
8. For consideration, the adjacent property to the West (120 E. 7th) has a standalone, detached garage similar to what the Matson's want to construct on their property. The precedent for detached garages facing 7th Street is established.
9. Using the City's interpretation, if the adjacent 120 E 7th property owner purchased Matson's property and removed the house, their property would then be considered a "corner lot" and suddenly non-conforming. By its own logic, the City's interpretation fails to identify when, if ever, a property would cease to be considered a corner lot.
10. If the City interprets any wall that runs alongside a street as "facing" that street—even if it is clearly a side wall—it runs the risk of creating inconsistent and impractical results. The same house could be treated differently under the zoning code based solely on whether neighboring parcels are combinedly into one lot, or divided and sold, or otherwise developed.
11. For example, the Matsons own two contiguous parcels, and if they were to sell the true corner parcel to a third party, the parcel on which their home currently sits and where they want to build the garage, would no longer be considered a corner lot under the UDC definition. This means their proposed garage location as it is now would be in compliance.

12. The City's current broad interpretation does not allow for reasonable and typical garage placement because compliance relates more to how parcels are divided than the lot orientation or structure design.

13. It places a disproportionate emphasis on property lines and not enough on how the structure relates to the streets it faces. Zoning rules are meant to guide the relationship between buildings and their surroundings—not to make parcel configuration the deciding factor.

FURTHER AFFIANT SAYETH NOT.

I declare under penalty of perjury that everything I have stated in this document is true and correct. I have signed this document on July 14, 2025, in St. Louis County, Minnesota.

By: 
Robert Fern, Principal
RW Fern Associates
Duluth, Minnesota



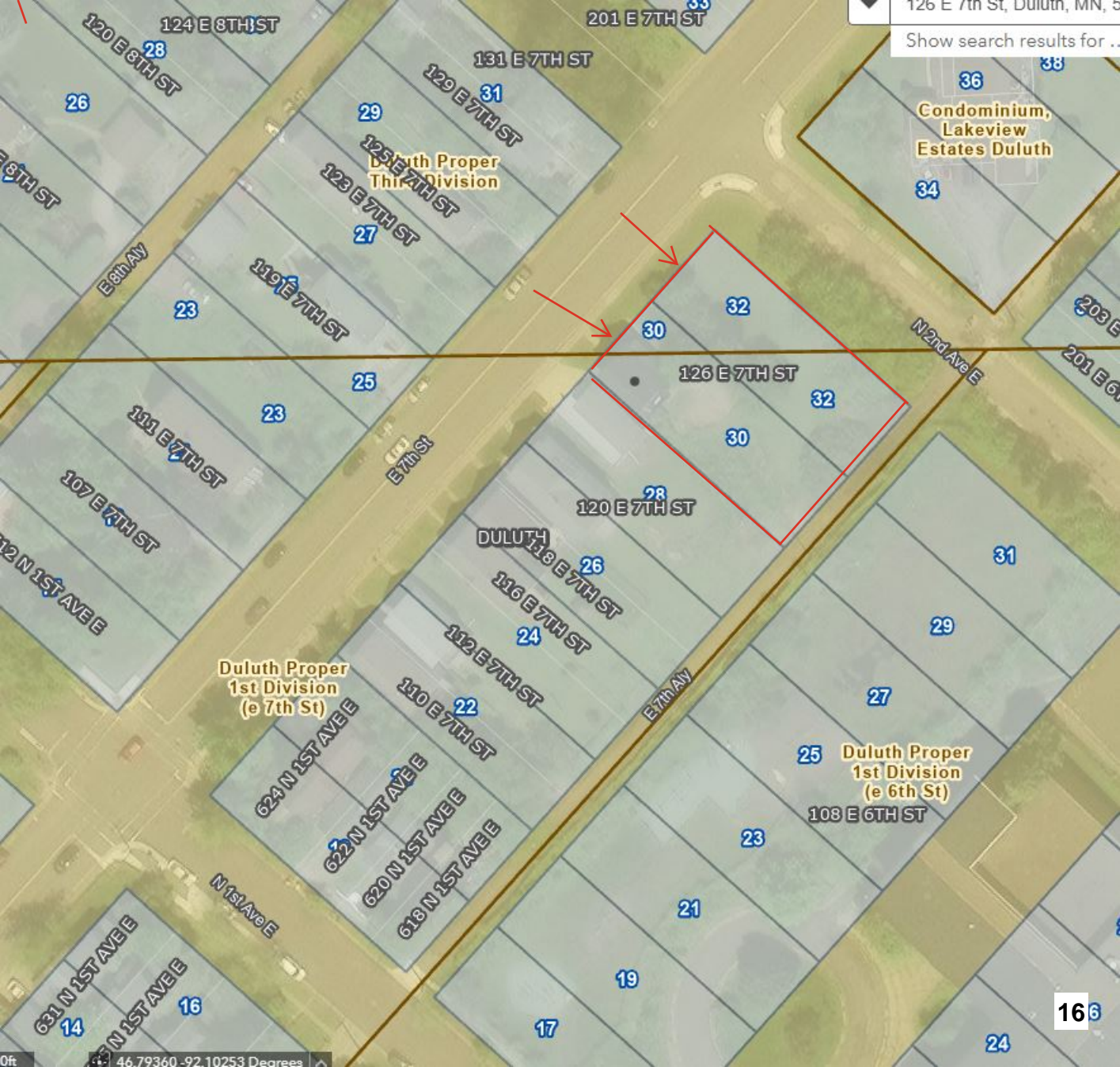
PROPERTY DETAILS REPORT

St. Louis County, Minnesota



Date of Report: 7/14/2025 3:43:46 PM

General Details							
Parcel ID:	010-1350-00230						
Document:	Torrens - 1082684.0						
Document Date:	08/30/2024						
Legal Description Details							
Plat Name:	DULUTH PROPER THIRD DIVISION						
Section	Township	Range	Lot	Block			
-	-	-	0030	081			
Description:	Lots 30 and 32, Block 81, INCLUDING Lots 30 and 32, EAST SEVENTH STREET, DULUTH PROPER FIRST DIVISION						
Taxpayer Details							
Taxpayer Name and Address:	MATSON PAMELA A & DENNIS A 6198 MCQUADE RD DULUTH MN 55804						
Owner Details							
Owner Name	MATSON DENNIS A						
Owner Name	MATSON PAMELA A						
Payable 2025 Tax Summary							
2025 - Net Tax				\$2,763.00			
2025 - Special Assessments				\$29.00			
2025 - Total Tax & Special Assessments				\$2,792.00			
Current Tax Due (as of 7/13/2025)							
Due May 15		Due October 15			Total Due		
2025 - 1st Half Tax	\$1,396.00	2025 - 2nd Half Tax	\$1,396.00		2025 - 1st Half Tax Due	\$0.00	
2025 - 1st Half Tax Paid	\$1,396.00	2025 - 2nd Half Tax Paid	\$0.00		2025 - 2nd Half Tax Due	\$1,396.00	
2025 - 1st Half Due	\$0.00	2025 - 2nd Half Due	\$1,396.00		2025 - Total Due	\$1,396.00	
Parcel Details							
Property Address:	126 E 7TH ST, DULUTH MN						
School District:	709						
Tax Increment District:	-						
Property/Homesteader:	-						
Assessment Details (2025 Payable 2026)							
Class Code (Legend)	Homestead Status	Land EMV	Bldg EMV	Total EMV	Def Land EMV	Def Bldg EMV	Net Tax Capacity
204	0 - Non Homestead	\$109,200	\$93,100	\$202,300	\$0	\$0	-
Total:		\$109,200	\$93,100	\$202,300	\$0	\$0	2023



Show search results for .

Condominium,
Lakeview
Estates Duluth

Duluth Proper
1st Division
(e 7th St)

Duluth Proper
1st Division
(e 6th St)

166