

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ-5222

**Date:** August 11, 2011

**Applicant:** Gregg and Nancy Isaacson

**Addresses of Property:** 5731 Clinton Avenue

**Contact Person and Phone:** Gregg Isaacson, (612) 331-1244

**Planning Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** July 14, 2011

**End of 60-Day Decision Period:** September 11, 2011

**Ward:** 11      **Neighborhood Organization:** Hale, Page, Diamond Lake Community

**Existing Zoning:** R1 Single-Family District and SH Shoreland Overlay District

**Zoning Plate Number:** 18

**Legal Description:** Not applicable for this application

**Proposed Use:** Replace an existing 252 square foot deck

**Variance** to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances and Chapter 551, Article VI, SH Shoreland Overlay District.

**Background:** The subject property is approximately 60 ft. by 200 ft. (12,000 sq. ft.) and the property includes a single-family dwelling with an attached garage. In May 2011, a tree fell on the existing rear, second-floor deck damaging it beyond repair. The applicant is proposing to reconstruct the existing 252 square foot rear deck to an existing single family dwelling in the same location. The new deck will require three new footings and larger posts (6 in. by 6 in.) to meet the building code. The existing deck is located within 40 feet of the top of a steep slope, but not directly on it. Due to the proximity of the property to Diamond Lake, the grades on site and the location within the SH Shoreland Overlay District, the proposal requires variance to reconstruct the proposed deck within 40 feet of a steep slope.

To apply for a variance to allow for development on or within 40 feet of a steep slope or bluff the following four items must be met:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*

The existing single-family dwelling and the deck are within 40 feet of the top of the steep slope and require a variance to allow for the development.
2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The new deck will be supported by three 6 in. by 6 in. posts with three new 46 in. footings. This is the only soil disturbance for the project. The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type.
3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

The proposed project will require the addition of three new footings, in order to meet the building code. The proposed deck reconstruction does not present danger of falling rock, mud, uprooted trees or other materials.
4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*

The project area is located within 40 feet of the top of a steep slope and is located in the SH Shoreland Overlay District. The view from Diamond Lake will be consistent with what has existed on this property for many years.

#### **Findings Required by the Minneapolis Zoning Code:**

**VARIANCES** to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff.

1. **Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the variance is requested are unique to the parcel of land due to the existing steep slope and the proximity to Diamond Lake. The applicant is proposing to reconstruct the deck at exactly the same size and location. These circumstances have not been created by the applicant.
2. **The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking variance to allow for the reconstruction of an existing deck located within 40 feet of the top of a steep slope in the SH Shoreland Overlay district. The proposed deck will be the same size and in the same location as the previous deck. Staff believes that the applicant is proposing to use the property in a reasonable manner.
3. **The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance**

**will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and would not negatively alter the essential character of the area. The project area is located within 40 feet of the top of a steep slope and is intended to simply reconstruct the deck that was damaged in May 2011. The intent of the ordinance is to protect both the water body and other properties located below a steep slope from erosion and runoff. The applicant has demonstrated that the necessary precautions will be taken during the constructions of the deck and that the subject site will not be significantly altered to adversely affect the water quality of Diamond Lake. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

**Findings required by the Minneapolis Zoning Code for development in the Shoreland Overlay District:**

1. **The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**  
Staff believes the proposed project will prevent soil erosion and other possible pollution during and after construction. The proposed deck reconstruction will require three new 46 in. footings; otherwise, the soil will not be disturbed.
2. **Limiting the visibility of structures and other development from protected waters.**  
Staff believes the proposed development will permit very limited site lines from Diamond Lake, if any. The proposed deck is not changing in size or location; the property will appear just as it has for many years.
3. **The suitability of the protected water to safely accommodate types, uses and numbers of watercraft that the development may generate.**  
The subject site does have direct access to Diamond Lake, but it is not accessed from the proposed deck. The proposed project will not require the accommodation of any additional watercraft of any type on the Mississippi River.

**Recommendation of the Department of Community Planning and Economic Development - Planning Division:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and approve a variance to allow for development on or within 40 feet of the top of a steep slope to allow for the reconstruction of an existing deck accessory to a single-family dwelling located at 5731 Clinton Avenue in the R1 Single-Family District, SH Shoreland Overlay District and AP Airport Overlay District.

1. CPED-Planning and all other applicable City departments review and approve the final plans.

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**Attachments:**

1. Statement of use
2. Conditional use permit and variance findings
3. April 20, 2007, letters to Council Member Goodman and Lowry Hill Neighborhood Group
4. Zoning map
5. Site plan, floor plans and elevations
6. Photos of the site and surrounding area.