

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-4827

Date: July 15, 2010

Applicant: Greg Schmidt

Address of Property: 2221 52nd Street West

Project Name: Addition

Contact Person and Phone: Greg Schmidt (612) 827-6768

Planning Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: June 14, 2010

End of 60-Day Decision Period: August 13, 2010

Ward: 13 **Neighborhood Organization:** Lynnhurst

Existing Zoning: R1 Single Family Residence District, SH Shoreland Overlay District and FP Floodplain Overlay District.

Zoning Plate Number: 35

Legal Description: Not applicable for this application

Proposed Use: Addition to a single family residence

Variance: A variance to permit development in the SH Shoreland Overlay District within forty (40) feet of the top of a steep in order to allow a one story rear addition to an existing single family home

Applicable zoning code provisions: Chapter 525, Article IX Variances, Specifically Section 525.520(17) “to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff.”

Background: The subject property is located on an interior lot that is approximately 55 ft. by 135 ft. (7,480 sq. ft.) and contains a single-family dwelling. The home is located along 52nd Street West and the rear of the subject site abuts parkland along the Minnehaha Creek.

The applicant is proposing a 174 square foot one story addition and a 177 square foot 1 story enclosed (screened) porch addition to the rear of the existing single-family dwelling. The existing single-family dwelling with the proposed addition is approximately 30 ft. from the top of the steep slope and there is an existing driveway leading to a tuck under garage that wraps around that back of the dwelling and is approximately 13 ft. from the top of the steep slope. The driveway will not be expanded. The grade on the property decreases drastically, approximately 28 feet, from the front to the rear of the property. There is an existing deck to the rear of the dwelling that will be removed. The proposed addition extends 3.5 feet closer to the top of the steep slope than the existing rear deck.

Staff received a letter of no objection from the Lynnhurst Neighborhood Association.

In the Shoreland Overlay District a variance is required for development on a steep slope or within 40 feet of the top of a steep slope. The proposed second story addition is less than 40 feet from the top of a steep slope and requires a variance. 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.*

Existing development on this site is within 40 feet of the top of a steep slope. This includes the existing single family dwelling, driveway, deck, and landscaping which are all classified as development.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The applicant will provide a foundation and structural plan; the proposed construction is occurring approximately 30 feet from the top of the steep slope over the existing driveway and the proposed 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 addition will not present a danger of falling rock, mud and no trees will be uprooted.

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 proposed remodeling and construction will occur 30 feet from the top of the steep slope that is approximately 100 feet from the center of a section of Minnehaha Creek. The views from the Creek will not be significantly altered because the home will project only 3.5 ft closer than the existing structure. The slope between the subject site and creek is wooded and screens the site. During leaf-off season the subject area will be more visible, as will the rest of the existing single family structures located along the Creek.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The applicant is seeking a variance to allow for development within 40 feet of the top of a steep slope in the Shoreland Overlay District (SH). Strict adherence to the substantial setback from the top of the steep slope creates an undue hardship for the applicant. As of right, the Zoning Code generally allows principal and accessory structures to cover up to 50 percent of a lot and a maximum floor area ratio of 0.5. The buildable envelope for the subject parcel (the area that is at least 40 ft. from the top of the steep slope and is outside of all required yards) is approximately 1,270 sq. ft. or only 17 percent of the lot. On a similarly situated parcel, the buildable envelope would be 50 percent.

The subject site is 7,480 sq. ft which would otherwise allow a maximum floor area of 3,740 sq. ft. for a single-family dwelling, which is impossible given the controls imposed by the development restrictions set forth by the SH ordinance. Without a variance this property could only be built out to 68 percent of what is allowed as of right on similar properties in the R1 Single Family residence district. Reasonable use of the property would typically allow for an addition that complies with the size, height and required yard regulations of the zoning code.

In addition, as an acknowledgement of this built-in hardship that can result from the SH regulations, the ordinance lists conditions that must be met to allow for a variance to the location of development (as described above in the background section). Due to the conditions described above, the Department of Community Planning-Planning Division staff believes that the property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance does cause undue hardship.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The conditions upon which the variance is requested are unique to the parcel of land due to the location of the subject dwelling with respect to the top of the steep slope and have not been created by any persons presently having an interest in the property. A portion of the existing home and the existing driveway, are already located within 40 feet of the top of the bluff and it would be difficult to locate an addition on this property without requiring a variance.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The intent of the ordinance is to protect both vulnerable water bodies and steep slopes from erosion and runoff. The proposed project does not negatively impact Minnehaha Creek or the steep slope leading to it from the property. The granting of the variance will therefore be in keeping with the intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The proposed project will likely have no impact on street congestion, danger of fire, or public welfare and safety.

Additional Findings for the Variance per the Shoreland Overlay District:

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

- 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 construction by utilizing soil erosion mitigation measures and that the existing driveway that extends closer to the top of the steep slope will not be disturbed. Any potential pollution hazards are reduced by the 90 feet plus of wooded slope between the subject site and Minnehaha Creek.

- 2. Limiting the visibility of structures and other development from the protected waters.**

The surrounding properties consist of single-family dwellings, many with larger two-story additions. The Department of Community Planning and Economic Development – Planning Division believes the proposed project will be no more visible than the adjacent dwellings. The existing vegetation between the creek and the dwelling limits the views of the subject property from the Creek and will not be removed for the new addition.

- 3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

The proposed variances should have no impact on the types, uses, and numbers of watercraft that occupy the Creek.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance to permit development in the SH Shoreland Overlay District within forty (40) feet of the top of a steep in order to allow a one-story rear addition to an existing single family home, for the property located at 2221 52nd Street West in the R1 Single Family Residence District, SH Shoreland Overlay District and FP Floodplain Overlay District, subject to the following conditions of approval:

1. Review and approval of final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.
2. As required by Chapter 551.490 (1), soil erosion or other possible pollution of public water, both during and after construction, will be prevented.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighborhood association
- 3) Copy of e-mail sent to neighborhood organizations and CM
- 4) Zoning map
- 5) Site plan
- 6) Building elevations
- 7) Floor plans
- 8) Photographs
- 9) Aerials