

**Department of Community Planning and Economic Development – Planning Division**

Variance Request  
BZZ-4242

**Applicant:** Kelly Davis, on behalf of Rich and Lynn Voelbel

**Address of Property:** 4446 Thomas Avenue South

**Contact Person and Phone:** Kelly Davis, 651-351-0961

**Planning Staff and Phone:** Molly McCartney, 612-673-5811

**Date Application Deemed Complete:** October 30, 2008

**Publication of Staff Report:** November 14, 2008

**Public Hearing:** November 20, 2008

**Appeal Period Expiration:** December 1, 2008

**End of 60 Day Decision Period:** December 29, 2008

**Ward:** 13      **Neighborhood Organization:** Linden Hills Neighborhood Council

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

**Proposed Use:** New single-family dwelling with attached garage

**Proposed Variance:** A variance to allow for development on or within 40 ft. of a steep slope in the Shoreland Overlay District to allow for the construction of a new single-family dwelling at 4446 Thomas Avenue South in the R1 Single-family Residence District and the SH Shoreland Overlay District.

**Zoning code section authorizing the requested variance:** 525.520 (17)

**Background:** On February 1, 2008, the City Council passed a zoning code text amendment that revised the Shoreland Overlay District. Prior to the text amendment, any development in the Shoreland Overlay District required both a variance and a conditional use permit. There was an unintended redundancy in the ordinance and CPED-staff authored a change to only require a variance. Since a conditional use permit was previously required any development that occurred in the Shoreland Overlay had to be heard by the Planning Commission. Because of the ordinance change, only a variance will be required and the Board of Adjustment will hear these types of applications.

The property is currently a single-family dwelling with attached garage on a lot size that measures 8,330 sq. ft. The property is located in the R1 Single family District and the SH Shoreland Overlay District. The subject site is located on the west side of Lake Harriet. There are other homes to the west, north, and east

**CPED Planning Division Report**  
BZZ-4242

of this site. Beard's Plaisance, a Minneapolis Park and Recreation Board park is located to the south of this site. West Lake Harriet Parkway is to the east of this site as well.

The applicant is proposing to demolish the existing house and attached garage and build a new single-family dwelling and attached garage. The new home is consistent with other zoning code regulations such as setbacks, maximum floor area ratio (FAR), height and maximum building (20 percent) and impervious coverage (37 percent). The home also receives 15 points for Site Plan Review, including the following:

- Basement (5 points)
- Wood and brick exterior materials (4 points)
- 20 percent windows on façade (3 points)
- Roof pitch (2 points)
- Tree planted in front yard (1 point).

The new construction requires a variance to proceed because it is located in the SH District and a steep slope has been identified within 40 ft. of the construction disturbance for the new home. From the survey of existing conditions, staff determined that there is a steep slope on the property to the north. This is a single-family home as well. From the northeast corner of the subject home, there is 22 percent grade change over a distance of more than 50 ft. This site condition triggers the variance for development with 40 ft. of a steep slope in the SH District.

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 home and other residential properties to the west, north, and east are within 500 ft. of the proposed development.

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

The structural components of the proposed new construction have been designed by Jerry Palms, PE, of Archistructures. Jerry Palms is a professional engineer and has signed the plans.

***3. The development shall present no danger of falling rock, mud, uprooted trees or other materials.***

The subject site does not present danger of failing rock, mud, uprooted trees or other materials. While the property does have a grade changes sloping towards the street, the property does not have a steep slope on it that would present dangerous materials. The slope that is triggering this variance is located on the property to the north. There are no mature trees on site.

***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 site plan showing the elevation changes with the new construction, have little alteration of the existing slope of the lot. The new home is located in a similar location to the existing home.

The footprint of the existing home is 1,649 sq. ft. and the new home has a footprint of 2,360 sq. ft. The lot slopes toward the street, and the rear of the home will be tucked into the slope. The visual impacts from properties to the west subject site will be lessened because of the tucked-in nature of the rear of the property. There are no mature trees on site to save and the applicants are proposing to add a number of ornamental trees and hedges.

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

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

The Shoreland Overlay District requirements restrict new development on the subject site because of the steep slope to the north. The property has an existing home on the site. Reasonable use of this lot of record includes alterations to the existing structure or new construction. The new home is within the zoning code requirements for all other requirements for new construction. While the code does not prevent the existing home from be on the property, future improvements to the site, such as additions or new construction would require variances as well.

- 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 circumstances are unique to the parcel of land and have not been created by any persons presently having an interest in the property. The existing home and surrounding area has existing residential development. The existing home is already located within 40 feet of the top of the steep slope and any improvements to the site would require this 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.**

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 steep slope that triggers this variance is not located toward Lake Harriet, but toward the property to the north. Any stormwater from the site would not directly flow from the property into Lake Harriet, but would be diverted to the stormwater sewers. The proposed site plan includes additional vegetation in both the front and rear yards. A final landscaping plan should be submitted to staff prior to building permits for final evaluation.

- 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.**

Granting the variance to allow development within 40 feet of the top of a steep slope would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety. Any stormwater from the site would not directly flow into Lake Harriet.

**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.**

Soil erosion and possible pollution of Lake Harriet will be small due the distance the construction site is from the lake. There are a number of other properties closer to Lake Harriet as well as West Lake Harriet Parkway and Beard's Plaisance. Any stormwater from the site would not directly flow from the property into Lake Harriet, but would be retained on site or flow into stormwater sewers.

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

Staff believes the proposed project will not be any more visible from Lake Harriet than existing development or block views of Lake Harriet from properties to the west. The subject site has an existing one-and-one-half story home and the new house meets the 30 ft. height requirement for the R1 and SH Districts. There are no mature trees on site and the applicants have proposed ornamental trees in the front yard.

**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 not have direct access to Lake Harriet and will not require access to Lake Harriet to accommodate the use.

**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 ft. of a steep slope in the Shoreland Overlay District to allow for the construction of a new single-family dwelling at 4446 Thomas Avenue South in the R1 Single-family Residence District and the SH Shoreland Overlay District., subject to the following conditions:

1. City of Minneapolis Public Works review and approve the final plans including the erosion control plan.
2. CPED-Planning and all other applicable City departments review and approve the final plans, including a landscape plan.