

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-4075

Applicant: Leffert Tigelaar

Address of Property: 5316 Russell Avenue South

Contact Person and Phone: Leffert Tigelaar, (952) 924-0043

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: June 5, 2008

Publication of Staff Report: June 20, 2008

Public Hearing: June 26, 2008

Appeal Period Expiration: July 7, 2008

End of 60 Day Decision Period: August 4, 2008

Ward: 13 **Neighborhood Organization:** Fulton Neighborhood Association

Existing Zoning: R1 Single Family District, FF Floodplain Overlay District, SH Shoreland Overlay District

Proposed Use: A new front vestibule and a new enclosed rear porch

Proposed Variance:

- A variance to reduce the front yard setback from 25 feet to 16 feet, 10 inches to allow for an enclosed vestibule and front porch;
- A variance to allow for an enclosed porch and a deck on the rear of the dwelling that is within 40 feet of the top of a steep slope.

Zoning code section authorizing the requested variance: 525.520 (1), (17)

Background: The subject site is an irregularly shaped lot that is approximately 10,740 square feet and 60 feet wide at its narrowest and approximately 130 feet deep. The home is located along Russell Avenue South and the rear of the subject site abuts the Minnehaha Creek.

Front Yard Setback: The subject site contains a brick ranch style single family dwelling that was constructed in 1954. The applicants are proposing to remodel the home and add a second story addition, a rear screened-in porch, and new front vestibule. The proposed vestibule is located at a portion of the

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existing house that is recessed 2.5 feet from front wall plane. The proposed vestibule is 5 feet 6 inches deep and 11 feet wide, but due to the existing recessed wall plane the vestibule only projects 3 feet in front of the existing dwelling. It is 21 feet 7 inches from the front property line. The applicant is also proposing a 9 feet wide by 5 feet deep “covered stoop” that will extend outward from the vestibule. Staff has determined the cover stoop to be similar to a front porch. In total the vestibule and covered stoop will extend 8 feet from the front wall plane of the existing dwelling and will be 16 feet 10 inches at its closest to the front property line.

Russell Avenue South curves at the location of the subject property and due to the curvature of the road the setback of the home varies, at its closest the home is located 24 feet 4 inches from the front property line. The district front yard setback is 25 feet and the established front yard setback is less. The adjacent building to the southwest is located 25 feet 4 inches from the front property line and the adjacent property to the northeast is 21 feet from the front property line. Due to the curvature of the street, the established front yard setback created by drawing a line between the two adjacent dwellings is actually less than the front yard setbacks of the adjacent dwellings and is 16 feet 10 inches.

The Zoning Ordinance states that the front yard setback is the required front yard setback or the established front yard setback, whichever is greater. The required front yard setback is 25 feet and the front yard setback established from the front two corners of the adjacent properties is 16 feet 10 inches. A variance is required to reduce the front yard setback to 16 feet 10 inches to allow for the proposed vestibule and front porch.

Steep Slope: The applicant is also proposing a 224 square foot rear screened-in porch that is attached to the existing dwelling. The proposed enclosed porch is in the approximate location of an existing rear deck. The grade on the property decreases drastically, approximately 34 feet, from the front to the rear of the property. The rear of the property has two retaining walls that terrace a portion of the backyard and create patio area and lawn area before falling off into a tree filled slope that runs down to parkland along the Minnehaha Creek. The slope of this area, between the terraced area and the creek, is approximately 43 percent and is classified as a steep slope by the Zoning Ordinance.

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 enclosed front porch is less than 40 feet from the terrace wall and the top of the 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.*

The subject dwelling and the adjacent dwellings along Russell Avenue South are located within 40 feet of the top of the steep slope. There is an existing deck in the location of the proposed enclosed porch

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

The proposed porch addition will rest on concrete piers. A letter from David Wagner, P.E. of A.M. Structural Engineers regarding the engineering for the addition is included in attachment one of this report.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*
The proposed porch addition is located on a terraced portion of the property and is in the relative location of the existing deck. The area is currently covered by grass and landscaping. The applicant has not submitted an erosion control plan for the construction, but will be required to provide one before receiving building permits.
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 porch is in a location consistent with the existing dwelling and the adjacent dwellings. As depicted in the attached photographs, its visibility from the creek is minimal.

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.**

Front Yard Setback: The applicant has requested a variance to reduce the front yard setback from 25 to feet 16 feet 10 inches to allow for a front vestibule that projects 3 feet beyond the existing building wall of the dwelling and a covered stoop or open front porch that projects another five feet beyond the vestibule. The intent of the required and established front yard setback is to create a consistent building wall and to protect viewsheds in the front of dwellings. The curvature of this portion of Russell Avenue South has resulted in varying setbacks. The proposed vestibule does not project any further into the front yard than the adjacent dwelling to the east and does not project into the front yard setback established by the two adjacent dwellings. The proposed 'covered stoop' is substantially similar to a front porch and projects an additional 5 feet in front of the building mass of the structure. A front porch is permitted to project 6 feet into the required front yard and would be allowed if the front setbacks of the structures were uniform. Staff believes that the proposed vestibule and covered stoop is a reasonable use of the property as it does not interfere with consistency of front yard setbacks along Russell Avenue and the accompany viewsheds. Staff believes that the spirit and intent of the front yard setback to create a consistent front yard cannot be met by strict interpretation of the zoning ordinance due to the unique circumstance created by the curvature of the Russell Avenue and the locations of the adjacent homes.

Steep Slope: The applicant is seeking a variance to allow for construction on or within 40 feet of the top of a steep slope in the Shoreland Overlay District. The proposed rear porch will replace an existing deck. Due to the location of the subject dwelling any modifications to the rear of the dwelling or the deck could not be done under strict interpretation of the zoning ordinance. Staff believes an enclosed porch in the location of the existing deck is a reasonable use of the property.

- 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.**

Front Yard Setback: The conditions upon which the variance is requested are unique to the parcel of land due to the location of the subject dwelling and the adjacent dwellings and the curvature of Russell Avenue South.

Steep Slope: 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. The applicant did not develop the land or locate the dwelling on the subject property.

- 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.**

Front Yard Setback: The proposed setback variance will be in keeping with the spirit and intent of the ordinance and will not be injurious to the use or enjoyment of the adjacent property owners. The proposed vestibule will be no closer to the front property line than the adjacent property to the east and will not alter the viewsheds of the front yards for other adjacent properties.

Steep Slope: The proposed variance will not alter the essential character or the area. There is an existing deck in the location of the proposed porch and will be consistent with the location and massing of the dwellings of the adjacent properties.

Staff is concerned that spirit and intent of the ordinance is not being fully met. The applicant indicates that the stormwater runoff from the proposed porch will be contained on the terraced portion of the rear yard. However, the plans do not offer specific guidance on how or where the stormwater will be stored or drained.

- 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.**

Front Yard Setback: Granting the variance would not likely increase congestion in the area or increase the danger of fire safety, nor would the variance be detrimental to welfare or public safety.

Steep Slope: Granting the variance would not likely increase congestion in the area or increase the danger of fire safety. Staff is concerned that increased stormwater runoff from the addition and the dwelling could be detrimental to water quality of the Minnehaha Creek and thus be detrimental to the public welfare.

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 disturb very little soil through its design and location on an existing terraced area and will result in minimal increases in runoff that could cause soil erosion or pollution of public waters. However, the applicant has not submitted a soil erosion plan or a stormwater management plan that demonstrates how stormwater runoff will be handled during or after the construction.
2. **Limiting the visibility of structures and other development from protected waters.**
Staff believes the proposed project will be no more visible than the existing dwelling or the adjacent dwellings. The existing vegetation limits the views of the subject property from the Creek.
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 access to Minnehaha Creek and will not require the Creek 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:

- A **approve** a variance to reduce the front yard setback from 25 feet to 16 feet 10 inches to allow for an enclosed vestibule and front porch;
- A **approve** variance to allow for an enclosed porch and a deck on the rear of the dwelling that is within 40 feet of the top of a steep slope

at 5316 Russell Avenue South in the R1 Single Family District, FF Floodplain Overlay District and the SH Shoreland Overlay District with the following conditions:

1. The applicant shall submit and implement a stormwater management plan for the site that can contain the runoff from a 100 year storm event on the property.
2. The applicant shall receive approvals for the project from the Minnehaha Creek Watershed District.
3. City of Minneapolis Public Works review and approve the final plans including the erosion control plan.
4. CPED-Planning and all other applicable City departments review and approve the final plans.

Attachments:

1. Applicant's Statement
2. Map of Area
3. Site Plan and plans for the proposed home
4. Photographs
5. Correspondence from Residents