

CPED Planning Division Report
BZZ-4355

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-4355

Applicant: Scott Newland, on behalf of The Minikahda Club

Address of Property: 3205 Excelsior Boulevard

Contact Person and Phone: Scott Newland, (612) 386-6974

Planning Staff and Phone: Jacob Steen, (612) 673-2264

Date Application Deemed Complete: April 7, 2009

Publication of Staff Report: May 1, 2009

Public Hearing: May 7, 2009

Appeal Period Expiration: May 18, 2009

End of 60 Day Decision Period: June 8, 2009

Ward: 13 **Neighborhood Organization:** West Calhoun Neighborhood Council and Linden Hills Neighborhood Council

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

Proposed Use: A wading pool, walkway, and pool equipment.

Proposed Variance: A variance to allow for the development of a wading pool, walkway, and pool equipment located within 40 feet of the top of a steep slope at 3205 Excelsior Boulevard.

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

Background: The Minikahda Club has two existing pools to the east of the clubhouse on the subject site. The existing wading pool currently shares a drainage system with the larger pool and is out of compliance with numerous state and local regulations. The replacement of the pool has been mandated by both the Minnesota Department of Health and the City of Minneapolis Regulatory Services.

The subject site is located on the west side of Lake Calhoun. The Minikahda Club consists of two parcels with a combined area of approximately 6,823,650 square feet which are addressed off of Excelsior Boulevard. The eastern edge of the property runs in part along the top of a bluff overlooking Lake Calhoun. The western edge of the subject property runs entirely along France Avenue South.

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The applicant is proposing to replace and expand an existing wading pool and walkway at the northeastern edge of the site, between the clubhouse and the top of a steep slope overlooking Lake Calhoun. The site currently contains a large pool area, patio, walkway, and the existing wading pool. The existing wading pool is surrounded by a grassy area of with no concrete walkway.

The applicant is proposing to replace the existing wading pool with a slightly larger pool bordered by a five foot wide continuous concrete walkway to comply with Minnesota Pool Code. The proposed plans will connect the concrete walkway surrounding the new wading pool with an existing walkway that connects the main pool with the clubhouse and patio area. The proposed wading pool is in the same location as the existing pool and has a slightly larger oval shape to replace the existing circle shaped pool. To accommodate for the five foot walkway required by the Minnesota Pool Code, the outer edge of the pool is approximately three feet nearer to the top of the steep slope. The outer edge of the concrete apron is approximately eight feet closer to the top of the slope than the existing pool edge. The entire area in which the proposed pool is to be situated is at a flat and even grade.

The applicant is also proposing to install a new concrete slab to support the required pool equipment. The proposed slab is approximately 25 feet to the south of the proposed pool, just on the outside of the existing fence, built into the side of the hill. The proposal includes between four and ten feet of landscaping on all sides of the equipment, effectively screening it from all directions.

The proposed improvements will result in an additional impervious surface coverage of approximately 600 square feet for the approximately 157 acre site. The impervious surface coverage of the site is currently well below the maximum of 65 percent for the R1 District.

The proposed wading pool, walkway and equipment are within 40 feet of the top of the bluff and require a variance to allow for the development.

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 wading pool, main pool, patio and walkway are within 40 feet of the top of the steep slope as well as a portion of the structure for the clubhouse.

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

The applicant has provided a letter from Clark Engineering summarizing their review of the site and stating that the existing slope condition and soil type are adequate for the proposed site improvements. They also state that a geotechnical engineer will review the soils during the excavation phase and make recommendations as to any soil correction or compaction measures required to ensure an adequate foundation.

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

The applicant has provided a grading and erosion control plan developed by Clark Engineering. The details of the erosion control plan are attached and include silt fencing to prevent run-off during construction and soil stabilization after construction by requiring reseeding of the disturbed areas. The plan also specifies that a geotechnical engineer will review the soils during the excavation phase and make recommendations as to any soil correction or compaction measures required to ensure an adequate foundation.

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 wading pool and surrounding walkway are at the top of a steep slope that is approximately 240 feet from the edge of Lake Calhoun. Both the proposed pool and surrounding walkway are at grade and will not be visible from either Lake Calhoun or West Lake Calhoun Parkway. The proposed pool equipment will be approximately four feet tall and will be entirely screened with arborvitae from all directions. The proposed screening meets 535.70 of the City of Minneapolis Zoning Code and will obstruct any view of the equipment from the bottom of the steep slope.

There is a lightly wooded bluff between the subject site and Lake Calhoun that also screens the site. During leaf-off season the subject area will be more visible, as well as the rest of the existing structures located within 40 feet of the top of the steep slope on the west side of Lake Calhoun.

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 applicant is seeking a variance to allow construction on or within 40 feet of the top of a steep slope in the Shoreland Overlay District. Currently, there exists a large pool, a smaller wading pool, a patio, various connecting walkways, and part of the clubhouse structure within 40 feet of the top of the slope. Per the applicant, the existing larger pool operates in tandem with the wading pool. This location allows a line of sight from both the outdoor patio area and the larger pool, which permits direct supervision of the wading pool. The proposed development will be larger than the existing wading pool and walkway due to state and local regulations concerning safety in and around pools. The proposed pool equipment is also required for compliance with state and local safety requirements. These alterations have been mandated by the Minnesota Department of Health and the City of Minneapolis Regulatory Services Department. The proposed improvements would not be allowed under strict interpretation of the Shoreland Overlay District ordinance. Staff believes that replacing the existing wading pool with a design that complies with state and local regulations is a reasonable use of the property.

- 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 two existing pools, walkways, and patio are already located within 40 feet of the top of the steep slope and improvements to any of these structures or the eastern edge of the clubhouse 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. As previously stated, the proposed wading pool is larger than the existing pool but will be constructed in essentially the same location.

Although the proposed equipment placement will be closer to the top of the steep slope than the location of the existing development, the applicant is proposing landscaping that will soften the potential views of the equipment from West Lake Calhoun Parkway, which is 140 feet to the east. The applicant is proposing screening in the form of arborvitae which will form an evergreen hedge on all sides of the equipment.

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 to control erosion during the constructions of the site and that the subject site will not be significantly altered to adversely affect the water quality of Lake Calhoun.

- 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. The proposed development will bring the wading pool into compliance with safety regulations by providing a separate drainage system from the larger pool and constructing a five foot nonslip concrete walkway per the Minnesota Pool Code. These alterations will positively benefit 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 prevent soil erosion and other possible pollution during construction utilizing the attached soil erosion control plan. After construction the proposed site will be stabilized per the erosion control plan and future erosion will be minimized. Any potential pollution hazards are reduced by the 140 feet of wooded slope between the subject site and West Lake Calhoun Parkway.

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

Staff believes the proposed development will permit limited site lines from Lake Calhoun. The proposed wading pool and walkway will not be visible from Lake Calhoun as they are situated 240 feet to the west and at an elevation of 64 feet above Lake Calhoun. The proposed new pool equipment is also approximately the same distance from Lake Calhoun and will rise approximately four feet above grade, including the concrete slab. This equipment will be screened from all elevations by hedges and will not be visible from the Lake once the landscaping has been planted. As stated earlier, visibility from Lake Calhoun will be increased slightly during the non leaf-off season when foliage on the slope below the subject site is light. At other times, the views from Lake Calhoun will be obstructed by vegetation.

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 Calhoun and will not require the accommodation of any additional watercraft of any type on Lake Calhoun.

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 the development of a wading pool, walkway, and pool equipment within 40 feet of the top of a steep slope at 3205 Excelsior Boulevard in the R1 Single Family District and SH Shoreland Overlay District with 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.

Attachments:

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| Appendix A. | Application |
| Appendix B. | Statement of proposed use and variance findings from applicant |
| Appendix C. | Map of Subject Site |
| Appendix D. | Authorization letter from property owner |
| Appendix E. | Letter to Council Member/Neighborhood Group |
| Appendix F. | Site plan |

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Appendix G.	Erosion Control Plan/Letter from Engineering Company
Appendix H.	Photos provided by applicant
Appendix I.	Additional Correspondence