

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit and Variance  
BZZ-3563

**Date:** June 11, 2007

**Applicant:** McMonigal Architects

**Addresses of Property:** 76 Groveland Terrace

**Project Name:** Mulvahill Deck Replacement

**Contact Person and Phone:** Rosemary McMonigal, (612) 331-1244

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

**Date Application Deemed Complete:** April 30, 2007

**End of 60-Day Decision Period:** June 29, 2006

**Ward:** 7      **Neighborhood Organization:** Lowry Hill Neighborhood Inc.

**Existing Zoning:** R2 Two-Family District and SH Shoreland Overlay District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 18

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

**Proposed Use:** Replace an existing 278 square foot deck with a 250 square foot deck

**Concurrent Review:**

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

**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 applicant is proposing to remove an existing two-level, 278 square foot rear deck to an existing single family dwelling and replace it with a one-level 250 square foot deck, in approximately the same location. The new deck will be required to do new footings to meet the building code. The

existing deck is located on the steep slope and the proposed deck will be located within 40 feet of a steep slope, but not directly on it.

The property is zoned R2 and is located within the SH Shoreland Overlay District. Specifically, the area where the applicants are proposing to construct the deck is located within 40 feet of a steep slope. Due to the proximity of the property to Spring Lake, the grades on site and the location within the SH Shoreland Overlay District, the proposal requires a conditional use permit and variance to construct the proposed deck within 40 feet of a steep slope. The SH Shoreland Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

**CONDITIONAL USE PERMIT** – to allow for the construction of a new deck to an existing single-family dwelling located within the SH (Shoreland) Overlay District

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

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Planning Division does not believe that allowing the proposed construction within 40 feet of a steep slope would endanger the public health, safety, comfort or general welfare as the proposed deck will be constructed at a sufficient distance away from the top of the steep slope; it will be located six feet further away from the steep slope than the existing deck and will be smaller in area.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that constructing the proposed deck within 40 feet of a steep slope would impede development or be injurious to the use and enjoyment of other property in the area. The proposed rear deck and the new footings required should not cause any damage to the slope.

- 3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The applicants would be required to work closely with the Plan Review Section of the Regulatory Services Department and the various utility companies during the duration of the

development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The parking requirement for the proposed development is one off-street parking space per dwelling unit. The new deck will not result in a higher parking requirement.

**5. Is consistent with the applicable policies of the comprehensive plan.**

According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment (Policy 9.6).
- Maintain and strengthen the character of the city's various residential areas (Policy 9.8).

This specific proposal is in conformance with the above noted principles and policies of the comprehensive plan. The proposed deck has been designed to minimize impacts and add value to the current property.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located.**

The applicants must comply with the grading and filling regulations of Section 551.510, including employing best management practices to prevent erosion and trap sediment. Additionally, removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

**551.490. Conditional Uses:** In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following:

**1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

The applicants will be required to prevent soil erosion and possible pollution of public waters, both during and after construction. The applicants will be required to install a silt fence during construction and will be required to follow all applicable City requirements to prevent any type of water pollution.

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

The Planning Division does not believe that the proposed deck would significantly impact views from Spring Lake as the deck will be constructed in approximately the same location and be smaller in area.

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

This development will not impact watercraft usage on Spring Lake.

**551.500. Development on slopes between twelve (12) and eighteen (18) percent.** Development on slopes between twelve (12) and eighteen (18) percent, other than bluffs, where allowed by the primary zoning district, provided the development is not located within fifty (50) feet of the ordinary high water mark of any protected water, may be allowed in the SH Overlay District subject to the regulations of this article, Chapter 535, Regulations of General Applicability, and the following conditions:

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

The applicants have indicated that the foundation and underlying material would be adequate for the existing slope conditions and soil types. The construction of the addition should not cause any damage to the slope.

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

The applicants have indicated that the development would not present any danger of falling rock, mud or uprooted trees or other materials. The applicants will be required to install a silt fence around the site during construction.

**3. 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 surrounding architectural features.**

The Planning Division believes that the view of the developed slope from Spring Lake would not be altered and would be consistent with the natural appearance of the slope and with the surrounding architectural features. Additionally, the application has stated that there will be no need to remove and trees or other vegetation.

**VARIANCE** - to permit development in the SH (Shoreland) Overlay District on a steep slope or bluff, or within 40 feet of the top of a steep slope or bluff

**Findings as Required by the Minneapolis Zoning Code for the Variances:**

**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 current use of the property is reasonable; however, it would be difficult to construct a new under the conditions allowed and with strict adherence to the regulations of the zoning code. The rear portion of the property is considered a steep slope. Therefore, any development proposed on the rear of the existing lot would require a conditional use permit and a variance. To build outside of the steep slope or more than 40 feet from the top of the steep slope the proposed deck would need to be constructed on the front of the house which would be located in the required front yard. Due to the site constraints, the Planning Division believes that a hardship exists on 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 fact that any development on the rear of the site would require a conditional use permit and a variance is a unique circumstance of this property.

- 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 Planning Division believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity as the deck will be constructed in approximately the same location and be smaller in area.

- 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 Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

**RECOMMENDATIONS:**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a

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conditional use permit to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff to replace an existing 278 square foot deck with a 250 square foot deck for the property located at 76 Groveland Terrace, subject to the following condition:

1. Removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

**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 City Planning Commission adopt the above findings and **approve** the variance to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff to replace an existing 278 square foot deck with a 250 square foot deck for the property located at 76 Groveland Terrace.

**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.