

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ 5193

Date: July 14, 2011

Applicant: Charlie Ainsworth

Address of Property: 3408 Zenith Avenue South

Contact Person and Phone: Charlie Ainsworth, (612) 804-9938

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

Date Application Deemed Complete: June 13, 2011

End of 60-Day Decision Period: August 11, 2011

Ward: 13 **Neighborhood Organization:** West Calhoun Neighborhood Council

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

Proposed Use: Reconstruction of an existing detached garage, with a new basement

Proposed Variance: A variance to allow for development on or within 40 feet of the top of a steep slope to allow for the reconstruction of a detached accessory structure with a new basement in the SH Shoreland Overlay District

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

Background: The lot is approximately 23,207 ft. and consists of an existing single-family dwelling with an attached and detached garage. The detached garage was damaged by a fire, sometime in the past and the applicant is proposing to reconstruct the detached garage with the same footprint, size and location of the existing. The applicant is also proposing to add a basement to the existing garage. There is a steep slope at the southwest corner of the property and the existing garage is located approximately 20 ft. from the top. The property is located in the SH Shoreland Overlay District due to the site’s proximity to Lake Calhoun. A variance is required for all development on or within forty (40) feet of the top of a steep slope. Therefore, the applicants have requested a variance to allow the proposed reconstruction of the detached garage with a new basement within 20 ft. of the top of a steep slope.

Previous land use approvals include a conditional use permit and variance to allow for the new construction of a single-family dwelling within 40 feet of the top of a steep slope, a variance to reduce the required front yard along Zenith Avenue South for the new detached garage and a variance to

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increase the allowed area for accessory structures to allow for an existing detached garage and a new attached garage. These approvals were granted by the City Planning Commission on July 17, 2006.

Staff has not received correspondence from the West Calhoun Neighborhood Council. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

The proposed project area is located within 40 feet of the top of the bluff and requires 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 detached garage is located within 40 feet of the top of the steep slope and requires a variance to allow for the development.
2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*
The existing detached garage proposed to be rebuilt in the same location, with the same footprint and height. The applicant is proposing to add a basement to the detached garage. The project area is currently developed and the foundation and underlying 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.*
Staff does not foresee that the proposed development will present danger of falling rock, mud, uprooted trees or other materials. The existing detached garage proposed to be rebuilt in the same location, with the same footprint and height, but with a new basement.
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 project area is located within 40 feet of the top of a steep slope and is approximately 575 feet from the edge of the Lake Calhoun and is located in the SH Shoreland Overlay District. The existing garage will appear just as it does today.

Findings Required by the Minneapolis Zoning Code:

1. **The property owner proposes to use the property in a reasonable manner.**
The applicant is seeking a variance to allow for the reconstruction of an existing detached garage that is located within 40 feet of the top of a steep slope in the Shoreland Overlay District. The garage sustained damage a number of years ago in a fire and the applicant is proposing to reconstruct the detached garage with a new basement. The project area is located within 40 feet of the top of a steep slope and is approximately 575 feet from the edge of the Lake Calhoun and is located in the SH Shoreland Overlay District. The existing garage will appear just as it does today.

- 2. Practical difficulties exist due to circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

There are unique circumstances of the parcel of land and that has created the practical difficulties and has not been created by any persons presently having an interest in the property. The existing project area is already located within 40 feet of the top of the steep slope and any repair, replacement or improvements to this area would require this variance.

- 3. If granted, the variance will be in keeping with the spirit and intent of the ordinance and the comprehensive plan 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 project area is located within 40 feet of the top of a steep slope and is approximately 575 feet from the edge of Lake Calhoun. The proposed detached garage will be located on the same foundation, with the same footprint and height.

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.

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 and after construction. Building and erosion control permits will be reviewed and issued before any work may begin on the subject property. Any potential pollution hazards are reduced by the 575 feet of distance between the subject site and Lake Calhoun.

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

Staff believes the proposed development will permit very limited site lines from Lake Calhoun, if any. The proposed detached garage will be located on the same foundation, with the same footprint and height. If the structure is visible, it will only appear as it presently does from Lake Calhoun.

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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 on or within 40 feet of the top of a steep slope to allow for the new reconstruction of a detached accessory structure for the property located at 3408 Zenith Avenue South in the R1 Single-Family District and SH Shoreland Overlay District, subject to the following conditions of approval:

1. CPED-Planning and all other applicable City departments review and approve the final plans.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to West Calhoun Neighborhood Council and CM Hodges
- 3) Zoning map
- 4) Shoreland Overlay District map
- 5) Survey
- 6) Site plan
- 7) Floor plans
- 8) Elevations
- 9) Photographs