

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-4739

Public Hearing: April 22, 2010

Applicant: James Hvidsten, on behalf of Bill Powell and Barbara Bencini

Address of Property: 2608 Cromwell Court

Project Name: Powell/Bencini Addition

Contact Person and Phone: James Hvidsten, (612) 612-919-7517

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

Date Application Deemed Complete: March 17, 2010

End of 60 Day Decision Period: May 17, 2010

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

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

Proposed Use: A 17' x 19' addition to a single family home

Proposed Variance: A variance to allow for an addition to a single family home within 40 feet of the top of a steep slope at 2608 Cromwell Court.

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

Background: The subject property consists of a single irregular parcel with a lot area of 11,822 square feet. The structure is a split level, single family dwelling, built in 1952. The parcel is accessible from Cromwell Court by a driveway leading to an attached two car garage, oriented toward the street. The rear of the lot runs adjacent to property owned by the Minneapolis Park and Recreational Board, which includes the Minnehaha Creek. At the rear of the lot is a walkout basement to a large existing patio, with a retaining wall and landscaping features built into the hill, which slopes downward towards the Creek. The angle of the slope on site ranges from approximately 8% to 30% at the steepest point. The area in which the addition is proposed is at the top of an approximately 28% slope.

The applicant is proposing to build a 17' x 19' addition to the rear of the attached garage. This addition would create a small habitable addition to the rear corner of the structure, which will house an elevator shaft entered through the garage that will allow access to the 2nd floor. The addition "fills out" a corner of the floor plan, which is located at the northwest corner of the structure. The exterior walls of the addition will continue along the existing building walls and the roof line will be extended.

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The proposed improvements will result in an additional impervious surface coverage of approximately 323 square feet for the 11,822 site. The impervious surface coverage of the site is currently well below the maximum of 65 percent for the R1 District.

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 addition is at the top of a steep slope and requires a variance.

Development on or within 40 feet of a steep slope or bluff must comply with the following criteria:

- 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 entire site currently exists either on or within 40 feet of the top of a steep slope. This includes the existing single family dwelling, concrete patio, deck, retaining walls, and landscaping, which is classified as development.

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

The applicant has provided a letter and documentation from an engineer at ArchiStructures, stating that the proposed addition has been engineered to be adequate for the slope condition and type.

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

The applicant has provided an erosion control plan developed by ArchiStructures along with detailed notes. The erosion control plan includes a silt fence to mitigate the effects of runoff towards the creek. The plan also addresses the proper evaluation of soils during the excavation phase and recommendations for making 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 addition is at the top of a steep slope, approximately 130 feet from the center of a section of Minnehaha Creek that regularly varies in depth, sometimes running dry, depending on the time of year. The views from the Creek will be altered very minimally, because the home currently exists in the same location. The slope between the subject site and creek is wooded and screens the site. During leaf-off season the subject area will be more visible, as will the rest of the existing single family structures located along the Creek.

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, the applicant's home, driveway, deck, patio, and retaining wall all exist within 40 feet of the top of the slope. Under the requirements of the Shoreland Overlay District, any development or improvements to the site would be prohibited without a variance. Staff believes that constructing the proposed addition, which complies with all other zoning 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. Nearly the entire parcel, including the existing home, is already located within 40 feet of the top of the steep slope and any addition or improvements to the site would require a 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.**

The intent of the ordinance is to minimize the visual impact of development from protected waterways and reduce the effects of 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 Minnehaha Creek. As previously stated, the proposed addition would extend the existing exterior walls and roofline to essentially "fill in" a corner of the house, and was designed so that the view from the creek will effectively look the same as the current view. The rear of the lot, which slopes towards the Creek, is wooded and will reduce the visual impact from the Creek. 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.

- 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 have any impacts on 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 construction by utilizing the proposed soil erosion mitigation measures. Any potential pollution hazards are reduced by the 100 feet plus of wooded slope between the subject site and Minnehaha Creek.

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

Staff believes the proposed development will permit limited site lines from Minnehaha Creek. The surrounding properties consist of single-family dwellings constructed at similar additions along the Creek. The Department of Community Planning and Economic Development – Planning Division believes the proposed project will be no more visible than the adjacent dwellings or development. Although the applicant will remove an existing deciduous tree in the area in which the proposed addition would be constructed, the wooded slope 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 is separated from Minnehaha Creek by a fence at the rear of the property. The proposed addition will not require the accommodation of any additional watercraft of any type on Minnehaha Creek.

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 an addition to a single family home within 40 feet of the top of a steep slope at 2608 Cromwell Court in the R1 Single Family District and SH Shoreland Overlay District with the following conditions:

1. CPED-Planning review and approval of the final site and elevation plans.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to neighborhood organizations and CM
- 3) Zoning map
- 4) Site Plan
- 5) Floor plans
- 6) Building elevations
- 7) Correspondence from Engineer
- 8) Photographs