

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits and Variances
BZZ-2794

Date: February 6, 2006

Applicant: Bob and Jo Ann Hilton

Addresses of Property: 735 Kenwood Parkway

Project Name: Hilton Residence

Contact Person and Phone: Kyle Smith with POLAR ICF, (952) 345-1017

Planning Staff and Phone: Hilary Dvorak, (612)673-2639

Date Application Deemed Complete: January 11, 2006

End of 60-Day Decision Period: March 12, 2006

End of 120-Day Decision Period: Not applicable for this application

Ward: 7 Neighborhood Organization: Lowry Hill Residents, Inc.

Existing Zoning: R2 (Two-family) district, SH (Shoreland) Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 18

Legal Description: Not applicable for this application

Proposed Use: Detached two-car garage

Concurrent Review:

Conditional use permit: to allow for the construction of a detached garage located within the SH (Shoreland) Overlay District.

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.

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 applicants are proposing to construct a new detached two-car garage on the back side of their property. The former garage on the property was destroyed when the adjacent property to the south's yard slid down on top of the garage causing it to collapse. 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 garage is located on 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 a new detached garage on 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.

The proposed garage measures 22 feet in depth and 34.5 feet in width. The total size of the garage is 759 square feet. The height of the garage, when measured to the midpoint of the roof line, is 14.5 feet. Since the size of the garage exceeds 676 square feet and the height of the garage exceeds 12 feet the applicants will need to apply for an administrative review application to increase the height and floor area of the accessory structure. The size of an accessory structure may be increased to a size equal to ten percent of the total lot area, not to exceed 1,000 square feet, and the height of an accessory structure may be increased to 16 feet where the primary exterior materials of the accessory structure and the primary roof pitch of the accessory structure match those of the principal structure. It has been determined that the exterior materials and roof pitch of the proposed garage match those of the primary structure.

CONDITIONAL USE PERMIT – to allow for the construction of a detached garage 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 detached garage to be constructed on a steep slope would endanger the public health, safety, comfort or general welfare as the garage is proposed to be constructed towards the bottom of the steep slope where the site begins to flatten out. The steepest portion of the slope on which the garage is to be constructed is located on the adjacent property to the south. Although a land slide occurred on the adjacent property to the south causing the applicant's previous garage to be destroyed the adjacent property has been approved to construct a retaining wall system on their property which will help stabilize the steep slope in the future.

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 garage on a steep slope would impede development or be injurious to the use and enjoyment of other property in the area. Although

the applicants will need to cut into the slope to construct the garage they have indicated that it will be done in such a way that will not cause any more 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 Inspections 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 would be one off-street parking space. The proposed garage will accommodate two vehicles.

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

The site is designated as single family in the comprehensive plan. In addition, the site is located across the street from a designated park area. According to the principles and polices 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 area (Policy 9.8).

This specific proposal is in conformance with the above noted principles and policies of the comprehensive plan. The proposed garage has been designed to replicate the architecture of the existing principle structure. In addition, the proposed garage will provide an enclosed area for the applicant's vehicles.

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

With the approval of the conditional use permit and the variance, this development will be in conformance with the applicable requirements of the R2 Zoning District and the SH Shoreland Overlay District.

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

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

The Planning Division does not believe that the proposed garage would significantly impact views from Spring Lake as the garage will be located towards the back of the property and partially behind the existing principal structure.

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. Although the applicants will need to cut into the slope to construct the garage they have indicated that it will be done in such a way that will not cause any more 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. A silt fence will be installed around the perimeter of 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 be minimally altered and would be consistent with the natural appearance of the slope and with the surrounding architectural features.

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.

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: The current use of the property is reasonable, however, it would be difficult to add on to the existing dwelling or construct any detached accessory structures on the site under the conditions allowed and with strict adherence to the regulations of the zoning code. The rear one-third of the property is considered a steep slope. Therefore any development proposed on the rear two-thirds of the site 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 garage would need to be constructed towards the front of the property 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.

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: The fact that any development on the rear two-thirds of the site would require a conditional use permit and a variance is a unique circumstance of this property. Please note that the proposed garage will be constructed in approximately the same location as the former garage but with a larger footprint.

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.

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: 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. The garage is proposed to be constructed towards the bottom of the steep slope where the site begins to flatten out. In addition, the garage will be located towards the back of the property and partially behind the existing principal structure.

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.

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: 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 conditional use permit to allow for the construction of a detached garage located within the SH (Shoreland) Overlay District for property located at 735 Kenwood Parkway 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 construction of a detached garage 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 for property located at 735 Kenwood Parkway.

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Attachments:

1. Statement of use
2. Conditional use permit and variance findings
3. Letter to Council Member Goodman's office, the Lowry Hill neighborhood organization and the Lake Shore Overlay Board
4. Zoning map
5. Site plan, elevations and footing plans
6. Photos of the site and surrounding area