

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-4472

Date: July 30, 2009

Applicant: Allen Theisen & Taya Rotering

Address of Property: 2211 52nd Street West

Project Name: Addition

Contact Person and Phone: Allen Theisen & Taya Rotering, (612) 616-0198

Planning Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: July 2, 2009

End of 60-Day Decision Period: August 30, 2009

Ward: 13 **Neighborhood Organization:** Lynnhurst

Existing Zoning: R1 Single Family Residence District, SH Shoreland Overlay District and FP Floodplain Overlay District.

Zoning Plate Number: 35

Legal Description: Not applicable for this application

Proposed Use: Addition to single family residence

Variance: A variance to permit development in the SH Shoreland Overlay District within forty (40) feet of the top of a steep in order to allow a second story addition to an existing single family home located at 2211 52nd Street West in the R1 Single Family Residence District, SH Shoreland Overlay District and FP Floodplain Overlay District.

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

Background: The subject property is located on an interior lot that is approximately 50 ft. by 135 ft. (6750 sq. ft.) and contains a single-family dwelling. The home is located along 52nd Street West and the rear of the subject site abuts parkland along the Minnehaha Creek.

The applicant is proposing a 1,161 square foot second story addition within the existing footprint of the single-family dwelling. The existing single-family dwelling with the proposed addition is approximately 14 ft. from the top of the steep slope. The grade on the property decreases drastically, approximately 33 feet, from the front to the rear of the property. The rear of the property has a 40 ft. x 20 ft. ground level deck before falling off into a tree filled slope that runs down to parkland along the Minnehaha Creek. The slope of this area, between the ground level deck and the creek, is approximately 33 percent and is classified as a steep slope by the Zoning Ordinance.

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 second story addition is less than 40 feet from the top of the steep slope and requires a variance.

As of writing this staff report, staff has not received any correspondence from the Lynnhurst Neighborhood Association.

Findings Required by the Minneapolis Zoning Code:

- 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 applicant is seeking a variance to allow for construction within 40 feet of the top of a steep slope in the Shoreland Overlay District. The proposed addition will not alter the original footprint of the single-family dwelling, should have little or no impact on the steep slope or Minnehaha Creek, and would be permitted if the site were not located in the Shoreland Overlay District. Due to the location of the subject dwelling a second story addition could not be done under strict interpretation of the zoning ordinance and does cause undue hardship. The Department of Community Planning and Economic Development – Planning Division believes a second story addition above the existing single-family dwelling 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 conditions upon which the variance is requested are unique to the parcel of land due to the location of the subject dwelling with respect to the top of the steep slope. A steep slope is not uncommon to properties bordering Minnehaha Creek in this area. The applicant did not develop the land or locate the dwelling on the subject 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 spirit and the intent of the ordinance is to protect vulnerable watersheds and steep slopes. The proposed project does not alter the existing footprint of the existing single-family dwelling and does not negatively impact Minnehaha Creek or the steep slope leading to it from the property. The granting of the variance will therefore be in keeping with the 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.

- 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 proposed project will likely have no impact on street congestion, danger of fire, or public welfare and safety.

Additional Findings for the Variance per the Shoreland Overlay District:

To apply for a variance to allow for development on or within 40 feet of a steep slope or bluff the following three items must be met:

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

A 40 ft. by 20 ft. deck separates the home from the slope. The applicant stated that no vegetation or soil will be disturbed during construction and the deck will be covered with a tarp and a silt fence along the railings. All construction debris will be removed through the front of the house to the street.

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

The surrounding properties consist of single-family dwellings with similar second story additions. The Department of Community Planning and Economic Development – Planning Division believes the proposed project will be no more visible than the adjacent dwellings. The existing vegetation limits the views of the subject property from the Creek.

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

The proposed variances should have no impact on the types, uses, and numbers of watercraft that occupy the Creek.

RECOMMENDATIONS

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 Board of Adjustment adopt the above findings and **approve** the variance to permit development in the SH Shoreland Overlay District within forty (40) feet of the top of a steep in order to allow a second story addition to an existing single family home, for the property located at 2211 52nd Street West in the R1 Single Family Residence District, SH Shoreland Overlay District and FP Floodplain Overlay District, subject to the following conditions of approval:

1. Review and approval of final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.
2. As required by Chapter 551.490 (1), soil erosion or other possible pollution of public water, both during and after construction, will be prevented.

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) Survey
- 5) Building elevations
- 6) Floor plans
- 7) Photographs
- 8) Aerials