

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ 5163

Date: June 30, 2011

Applicant: John and Judith Reiling

Address of Property: 3616 Edmund Boulevard

Contact Person and Phone: John Reiling, (612) 729-9137

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

Date Application Deemed Complete: June 2, 2011

End of 60 Day Decision Period: July 31, 2011

Ward: 12 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: R1 Single Family District, MR Mississippi River Critical Area Overlay and SH Shoreland Overlay District.

Proposed Use: New single-family dwelling with attached garage

Proposed Variance: A variance to allow for development on or within 40 feet of the top of a steep slope to allow for the new construction of a single-family dwelling, driveway and retaining walls on Lot 1 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 23,339 ft. and consists of two platted lots; Lot 1 and Lot 2. The property consists of an existing one and a two-story dwelling constructed in 1973. The applicant is proposing to obtain a separate property identification number for Lot 1 and construct a new single-family dwelling with an attached garage. There are substantial grade changes from the street and there are several steep slopes on the property. The site is located within 1,000 ft. of an ordinary highwater mark and is therefore subject to SH Shoreland Overlay District regulations. The proposed single-family dwelling will cantilever over the steep slope and a new driveway will be constructed on the top of the steep slope. In addition, the applicants’ architect is recommending additional retaining walls adjacent to the new driveway. 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 single-family dwelling and driveway on or near the steep slope.

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The new single-family dwelling will also be subject to the conditions of the design standards outlined in section 530.280 in the zoning ordinance.

530.280. Design standards. New single and two-family dwellings and multiple-family dwellings having three (3) or four (4) dwelling units shall comply with the applicable regulations of this zoning ordinance, including but not limited to the standards of Chapter 535, Regulations of General Applicability, related to front entrance, window area, and walkway requirements, and limitations on attached garages facing the front lot line. In addition, the zoning administrator shall ensure that such uses obtain a minimum of fifteen (15) points from Table 530-2, Single and two-family dwellings and multiple-family dwellings having three or four dwelling units. Standards used to meet the minimum requirement must remain in place for a period of not less than fifteen (15) years from the date of approval.

Preliminary review indicates that the design as currently proposed would receive 16 points for the following: Providing a basement, wood siding exterior, not less than 20% windows facing Edmund Blvd., not less than 10% windows facing the side and rear property lines and at least one deciduous tree in the front yard. If the applicant is approved for the variance required, they are required to submit an application of Administrative Site Plan Review for a new single-family dwelling.

Staff has not received correspondence from the Longfellow Community 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 single-family dwelling and proposed single-family dwelling and driveway area are within 40 feet of the top of the steep slope and require a variance to allow for the development.

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

The applicant's architect is recommending that retaining walls support the driveway and be composed of either large modular blocks or gabion walls. Using these materials will not require footings and will minimum disruption to the soil and tree root systems. 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.*

The proposed project will require the removal of one oak tree that was damaged in an electrical storm. The applicant's architect is recommending that retaining walls support the driveway and be composed of either large modular blocks or gabion walls. Using these

materials will not require footings and will minimum disruption to the soil and tree root systems.

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 sloop and is approximately 930 feet from the edge of the Mississippi River and is located in the SH Shoreland Overlay District. The front of the property is heavily wooded and there is a bluff on the east side of West River Parkway that drops down to the Mississippi River. During leaf-off season the subject area will may be more visible, as well as the rest of the existing structures located within 40 feet of the top of the steep slope on the west side of the Mississippi River.

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 development, including a new single-family dwelling, driveway and retaining wall on or within 40 feet of the top of a steep slope in the Shoreland Overlay District. The project area is located within 40 feet of the top of a steep sloop and is approximately 930 feet from the edge of the Mississippi River. The front of the property is heavily wooded and there is a bluff on the east side of West River Parkway that drops down to the Mississippi River. During leaf-off season the subject area will may be more visible, as well as the rest of the existing structures located within 40 feet of the top of the steep slope on the west side of the Mississippi River. Staff believes that the property owner is proposing to use the property in a reasonable manner.

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 sloop and is approximately 930 feet from the edge of the Mississippi River. The front of the property is heavily wooded and there is a bluff on the east side of West River Parkway that drops down to the Mississippi River. During leaf-off season the subject area will may be more visible, as well as the rest of the existing structures located within 40 feet of the top of the steep slope on the west side of the Mississippi River.

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 the Mississippi River.

- 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 930 feet of distance between the subject site and the Mississippi River.

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

Staff believes the proposed development will permit very limited site lines from the Mississippi River, if any. The front of the property is heavily wooded and there is a bluff on the east side of West River Parkway that drops down to the Mississippi River. During leaf-off season the subject area will may be more visible, as well as the rest of the existing structures located within 40 feet of the top of the steep slope on the west side of the Mississippi River.

- 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 the Mississippi River and will not require the accommodation of any additional watercraft of any type on the Mississippi River.

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, including a new single-family dwelling, driveway and retaining walls on or within 40 feet of the top of a steep slope on Lot 1 of the property located at 3616 Edmund Boulevard in the R1 Single-Family District, SH Shoreland Overlay District and MR Mississippi River Critical Area Overlay District, subject to the following conditions of approval:

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

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Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to Longfellow Community Council and CM Colvin-Roy
- 3) Zoning map
- 4) Shoreland Overlay District map
- 5) Hennepin County map
- 6) Site plan
- 7) Floor plans
- 8) Elevations
- 9) Photographs