

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3928

Applicant: Clayton Johnson, on behalf of St. Mary's Greek Orthodox Church

Address of Property: 3450 Irving Avenue South

Contact Person and Phone: Clayton Johnson, (952) 887-2794

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: January 29, 2008

Publication of Staff Report: February 14, 2008

Public Hearing: February 21, 2008

Appeal Period Expiration: March 3, 2008

End of 60 Day Decision Period: March 29, 2008

Ward: 10 **Neighborhood Organization:** East Calhoun Community Organization

Existing Zoning: R1A Single Family District and SH Shoreland Overlay District.

Proposed Use: A courtyard, patio and terrace.

Proposed Variance: A variance to allow for the development of a courtyard, patio and terrace within 40 feet of the top of a steep slope at 3450 Irving Avenue South.

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

Background: On February 1, 2008 the City Council passed a zoning code text amendment that revised the Shoreland Overlay District. Prior to the text amendment any development in the Shoreland Overlay District required both a variance and a conditional use permit. Staff felt that was an unintended redundancy in the ordinance and authored a change to only require a variance. Since a conditional use permit was previously required any development that occurred in the Shoreland Overlay had to be heard by the Planning Commission. As a result of the ordinance change only a variance will be required and these types of applications will be heard by the Board of Adjustment.

The subject site is located on the east side of Lake Calhoun. The property is approximately 150,000 square feet and addresses off of Irving Avenue South. The rear of the property is located on the top of

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bluff overlooking Lake Calhoun. The rear of the subject property sits approximately 40 feet above East Calhoun Parkway.

The applicant is proposing to improve and expand an existing courtyard on the rear of the property that overlooks the Loon Lake Trolley Path and Lake Calhoun. The site currently contains a courtyard area that leads down a stairway to an existing lower circular patio. The existing circular patio has a diameter of approximately 28 feet. The area around the existing patio is grass.

The applicant is proposing to improve the existing courtyard with new pavers and landscaping and is proposing to retain the existing stairway to the circular patio. The proposal will improve the existing circular patio with increased landscaping and concrete pavers around the circular patio. The circular patio is in the same location as the existing patio and approximately the same size. Concrete pavers will create a 6 foot wide path in the shape of a square around the circular patio with new landscape beds. The western most edge of the proposed lower patio area will be contained by a 1.5 foot tall modular block retaining wall.

The applicant is also proposing to install a new terrace area that will extend north from the existing upper level courtyard along the west building wall of the structure. The terrace will be approximately 22 feet wide and extend for nearly 100 feet along the west building wall of the property. The terrace will end south of the existing chimney on the site. The terrace will be held back by a modular block retaining wall that will be approximately 8.5 feet high on its southernmost edge and will fade into the slope with 1.2 feet being exposed on the north end of the terrace. The southwest corner of the proposed terrace wall will start in the location of an existing series of flagstone walls. The proposed terrace will include landscaping beds and four- 64 square foot tree beds that will contain four Ivory Silk Tree Lilacs. The northernmost edge of the terrace will contain sixteen Techny Arborvitae that will act as a vegetative screen.

The proposed improvements will result in an impervious surface coverage of 62 percent for the site. This is below the maximum of 65 percent for the R1A District. The applicant will be reducing the storm water run-off on the site through the use of sewer, infiltration pipe and infiltration tanks. Two, ten and one hundred year storm event run-off on the proposed site will be lower than the existing conditions (see sheet C4.0 Watershed Plan).

The proposed courtyard and terrace 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 courtyard and patio area is within 40 feet of the top of the steep slope as well is a portion of the structure for the church.

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

The proposed retaining walls have been designed by Michael Johnson of Civil Solutions Group, LLC. Michel Johnson is a professional engineer and has signed the plans. A copy of the wall plans is included in the attachments.

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

The applicant has provided an erosion control plan from BKBM Engineers prepared by Thomas J. Cesare. The details of the erosion control plan are attached and includes silt fencing to prevent run-off during construction and soil stabilization after construction by requiring reseeding of the disturbed areas using MnDOT Seed Mixture 250 at a rate of 70 pounds per acre. The proposed project reduces stormwater run-off on the site from two, ten and one hundred year storm events.

- 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 retaining wall for the lower circular patio will be 1.5 feet in height and will be similar in height to the existing portion of the patio that is exposed due to the grade and erosion. The proposed new terrace along the north edge of the building wall follows an existing grass terraced area and the existing footprint of a retaining wall. The retaining wall will be exposed at a maximum of 8.5 feet and will fade into the hill over a distance of 45 feet to an exposed height of 1.8 feet. The retaining wall systems and terrace will not exceed the height of the existing grades on the site. The applicant is not proposing any structures, besides railings, that will be significantly above the existing grade. The retaining wall system will be more noticeable than the grass of the hill from Lake Calhoun. The applicant is proposing to plant six Clump Prairie Crabapple trees to soften the view of the wall from the lake. These trees have mature height of 15-20 feet. The applicant is also proposing 16 Techny Arborvitae to soften the impact of the proposed terrace from views of properties to the north of the subject site. These arborvitae have a mature height between 10 and 20 feet.

There is a dense tree line between the subject site and Lake Calhoun that also screens the site. During leaf-off season the area will be more visible, but so is the rest of the existing structures located within 40 feet of the top of the steep slope on the east side of Lake Calhoun.

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. There is an existing courtyard, lower level patio,

and retaining wall in the location of the proposed courtyard, lower level patio, and the location of the proposed upper terrace. The proposed development will be larger than the existing site, but through its design it will stabilize the area and reduce run-off down the steep slope and onto Loon Lake Trolley path and Lake Calhoun. The existing courtyard and patio could not be improved under strict interpretation of the zoning ordinance. Reducing the stormwater run-off from the site down the steep slope and towards Lake Calhoun further the goals of the Shoreland Overlay ordinance and these improvements would not be allowed under strict interpretation of the ordinance. Staff believes improving the existing courtyard and patio area and reducing the site's stormwater run-off 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. The existing courtyard and church are already located within 40 feet of the top of the steep slope and improvements to the courtyard, patio or westside of the structure would require this 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.**

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. As previously stated, the new and improved patio and terrace locations will be larger than before and the new retaining wall will be more visible than a grass and dirt covered hill. The applicant is proposing crab trees and other vegetation to soften the view of the retaining wall from Lake Calhoun and the Loon Lake Trolley Path. The applicant is proposing sixteen Techny Arborvitae which will form an evergreen hedge that will reduce the visual and audio impact of activity on propose terrace portion of the proposed project.

Through improved stormwater management the run-off from the site will be reduced, despite the site being enlarged. 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 subject site reduces the water runoff from the site which will reduce erosion and help improve 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. The proposed courtyard reduces stormwater runoff on the site and will reduce erosion and surface water flow into Lake Calhoun. This will be beneficial to the lake and public welfare.

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 utilizing the attached soil erosion control plan. After construction the proposed site will have reduced stormwater runoff which will reduce erosion and the possible pollution of Lake Calhoun.

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

Staff believes the proposed project will limit the visibility of the development from Lake Calhoun. The proposed retaining wall for the lower circular patio will be 1.5 feet in height and will be similar in height to the existing portion of the patio that is exposed due to the grade and erosion. The proposed new terrace along the north edge of the building wall follows an existing grass terraced area and the existing footprint a retaining wall. The retaining wall will be exposed at a maximum of 8.5 feet and will fade into the hill over a distance of 45 feet to an exposed height of 1.8 feet. The retaining wall systems and terrace will not exceed the height of the existing grades on the site. The applicant is not proposing any structures, besides railings, that will be significantly above the existing grade. The retaining wall system will be more noticeable than the grass of the hill. The applicant is proposing to plant six Clump Prairie Crabapple trees to soften the view of the wall. These trees have mature height of 15-20 feet.

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 access to Lake Calhoun and will not require Lake Calhoun to accommodate the use.

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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 of a courtyard, patio and terrace within 40 feet of the top of a steep slope at 3450 Irving Avenue South in the R1A Single Family District and SH Shoreland Overlay District with the following conditions:

1. City of Minneapolis Public Works review and approve the final plans including the erosion control plan.
2. CPED-Planning and all other applicable City departments review and approve the final plans.

Attachments:

1. Applicant statement
2. Map of subject site
3. Site Plans and Survey of Site
4. Engineers plans for retaining wall
5. Photographs of site
6. Letter of Approval from the Minnehaha Creek Watershed District.