

Department of Community Planning and Economic Development – Planning Division
Variances
BZZ-5378

Date: November 17, 2011

Applicant: Al Theisen

Address of Property: 5315 Russell Avenue South

Contact Person and Phone: Al Theisen, (612) 616-0198

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

Date Application Deemed Complete: October 26, 2011

End of 60 Day Decision Period: December 25, 2011

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

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

Zoning Plate Number: 35

Legal Description: Not applicable

Proposed Use: A second-story addition to an existing one and half-story single family dwelling

Concurrent Review:

- **Variance** to reduce the required front yard setback along Russell Avenue South from 34 feet to 25 feet.
- **Variance** to allow for development on or within 40 feet of the top of a steep slope in the SH Shoreland Overlay District

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations” and 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 subject property is an irregularly shaped lot, approximately 7,328 square feet and consists of an existing one and a half story dwelling and tuck-under garage constructed in 1925. The existing dwelling is located approximately 25 feet from the front property line. The applicant is proposing to remove the existing second floor to add a full second-story addition. The adjacent structure to the east is located approximately 34 feet from the front property line. The minimum front yard setback in the R1 District is 25 feet. However, the required front yard shall be increased where the established front yard of the closest principal building originally designed for residential purposes

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located on the same block face on either side of the property exceeds the front yard required by the zoning district. In this case, the front yard setback is increased to approximately 34 feet based on the location of the adjacent structures. Approximately 100 square feet of the proposed second floor addition is located closer than 34 feet to the front property line. Therefore, the applicant is seeking a variance to reduce the required front yard setback from 34 feet to approximately 25 feet to allow for the proposed second-story addition.

The subject property is also located in the SH Shoreland Overlay District and the contour map of the area shows that there is a grade change exceeding 18 percent within 40 feet of the proposed addition. Due to the proximity of the property to Minnehaha Creek, the grades on site and the location within the SH Shoreland Overlay District, the proposal requires a variance to reconstruct the proposed porch within 40 feet of a steep slope.

As of writing this staff report, staff has not received any correspondence from the Fulton Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code:

VARIANCE: to reduce the required front yard setback along Russell Avenue South from 34 feet to 25 feet

- 1. Practical difficulties exist in complying with the ordinance because of 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.**

The circumstances upon which the setback variance is requested are unique to the parcel of land due to the location of the adjacent neighbor's house. The applicant is proposing to remove the existing half-story on the second floor and add a full second-story above the existing first floor of the existing single family dwelling. Approximately 100 square feet of the proposed second floor addition is located closer than 34 feet to the front property line. Staff believes that these circumstances have created practical difficulties in complying with the ordinance.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking a variance to reduce the front yard setback established by an adjacent residential structure along Russell Avenue South from approximately 34 feet to 25 feet in order to allow for the construction of a second-story addition to an existing single-family dwelling. Approximately 100 square feet of the proposed second floor addition is located closer than 34 feet to the front property line and it is located on the opposite side of the neighbor's house. The purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses by governing the location of accessory uses and structures. The proposed addition will not be located any closer to the front property line than the existing structure. Staff believes that the applicant is proposing to use the property in a reasonable manner.

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- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the granting of this variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The applicant is proposing to increase the height of the house from one and a half stories to two and a half stories. Approximately 100 square feet of the proposed second floor addition is located closer than 34 feet to the front property line. The proposed materials of the addition are stucco to match the existing dwelling. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

VARIANCE: to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff.

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 tuck-under garage 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 project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type. There will be no disruption of the existing slope or soil for the proposed project.
- 3. The development shall present no danger of falling rock, mud, uprooted trees or other materials.*
The proposed addition does not present danger of falling rock, mud, uprooted trees or other materials. There will be no disruption of the existing slope or soil for the proposed project.
- 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 slope and is located in the SH Shoreland Overlay District. The view of the property from Minnehaha Creek will be consistent with what has existed on this property for many years.

Findings Required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of 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.**
The circumstances upon which the variance is requested are unique to the parcel of land due to the existing steep slope and the proximity to Minnehaha Creek. The applicant is proposing to

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remove the existing half-story on the second floor and add a full second-story above the existing first floor of the existing single family dwelling. There will be no disruption of the existing slope or soil for the proposed project. These circumstances have not been created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking a variance to allow for the construction of a second-story addition located within 40 feet of the top of a steep slope in the SH Shoreland Overlay District. There will be no disruption of the existing slope or soil for the proposed project. Staff believes that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

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 slope and is intended to simply construct a second-story addition above the first floor on the same foundation. 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 during construction and no changes to the foundation will be made. Therefore, the subject site will not be significantly altered to adversely affect the water quality of Minnehaha Creek. Further, granting of the variance will not increase the danger of fire safety 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 that the proposed project will prevent soil erosion and other possible pollution during and after construction. The applicant has demonstrated that the necessary precautions will be taken during construction and no changes to the foundation will be made. Therefore, the subject site will not be significantly altered to adversely affect the water quality of Minnehaha Creek.

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

The proposed addition will add another floor; however, staff believes that very little of the property will be visible from Minnehaha Creek, if any. Located between the subject property and Minnehaha Creek is a row of single-family dwellings.

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

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This development will not impact watercraft usage 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** the variance to reduce the front yard setback established by the adjacent residential structure along Russell Avenue South from approximately 34 feet to 25 feet in order to allow for the construction of a second-story addition to an existing single-family dwelling located at 5315 Russell Avenue South in the R1 Single-Family District and SH Shoreland Overlay District.

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** the variance to allow for development on or within 40 feet of the top of a steep slope in the SH Shoreland Overlay District in order to allow for the construction of a second-story addition to an existing single-family dwelling located at 5315 Russell Avenue South in the R1 Single-Family District and SH Shoreland Overlay District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of letters sent to Fulton Neighborhood Association and CM Hodges
- 3) Zoning map
- 4) SH Shoreland Overlay Map with contours
- 5) Site plans
- 6) Elevations
- 7) Floor plans
- 8) Photographs