

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ-5292

**Date:** October 27, 2011

**Applicant:** Joseph Stanley and Lori Zook-Stanley

**Addresses of Property:** 4800 16<sup>th</sup> Avenue South

**Contact Person and Phone:** Lori Zook-Stanley, (612) 722-4029

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

**Date Application Deemed Complete:** October 5, 2011

**End of 60-Day Decision Period:** December 3, 2011

**Ward:** 11      **Neighborhood Organization:** Field, Regina, Northrop Neighborhood Association

**Existing Zoning:** R1A Single-Family District, SH Shoreland Overlay District and AP Airport Overlay District

**Zoning Plate Number:** 32

**Legal Description:** Not applicable for this application

**Proposed Use:** Deck reconstruction, shed expansion and new fence accessory to an existing single-family dwelling

**Variance** to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope.

**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 of bluff, or within forty (40) feet of the top of a steep slope or bluff” and Chapter 551, Article VI, SH Shoreland Overlay District.

**Background:** The subject property is approximately 53 ft. by 160 ft. (10,400 sq. ft.) and the property includes a single-family dwelling with an attached garage. The applicants are proposing to replace an existing shed with a shed that is 36 sq. ft. larger in area. The size of the shed will be 7 ft. 7 in. by 13 ft. 2 in. (approximately 102 sq. ft.) once constructed. In addition, the applicants are proposing to reconstruct an existing deck. The proposed deck will be slightly larger as it will extend over the new, larger, shed. The deck presently is located above the attached garage and shed and wraps around the south side of the dwelling. The applicants are also proposing to replace both an existing 3 ft. high and 6 ft. high fence on the property with a new 3 ft. high and 4 ft. high fence. Due to the proximity of the property to

Department of Community Planning and Economic Development – Planning Division  
BZZ-5363

Minnehaha Creek, the grades on the site and the location within the SH Shoreland Overlay District, the proposal requires a variance to reconstruct the proposed deck, shed and fence within 40 feet of the top of a steep slope.

To apply for a variance to allow for development on or within 40 feet of the top of a steep slope or bluff the following four items must be met (Section 551.470):

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, attached garage, shed, deck and fence 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 for the proposed project.
3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*  
The proposed shed, deck and fence reconstruction does not present danger of falling rock, mud, uprooted trees or other materials. There will be no disruption of the existing slope 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 from Minnehaha Creek will be consistent with what has existed on this property for many years.

**Findings Required by the Minneapolis Zoning Code:**

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

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 applicants are proposing to replace the existing shed, reconstruct the deck and fence in approximately the same location. These circumstances have not been created by the applicants.
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 applicants are seeking a variance to allow for the reconstruction of an existing deck, shed and fence located within 40 feet of the top of a steep slope in the SH Shoreland Overlay district. The proposed shed will be 36 sq. ft. larger and the deck will increase in size to extend over the proposed shed and the fence will be in the same location, with an overall reduction in height. 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 will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The project area is located within 40 feet of the top of a steep slope. The applicants are proposing to replace the existing shed, reconstruct the deck and fence in approximately the same location. 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 applicants have demonstrated that the necessary precautions will be taken during the construction of the deck, shed and fence as there are no changes to the existing steep slope. 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 the proposed project will prevent soil erosion and other possible pollution during and after construction. The applicants have demonstrated that the necessary precautions will be taken during the constructions of the deck, shed and fence as there are no changes to the existing slope. 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.**

Staff believes that the proposed development would have limited visibility from Minnehaha Creek. The proposed deck, shed and fence are not similar in size and location; the property will appear similar to how it has for many years. In fact, with the reduction in fence height the property will be less visible from Minnehaha Creek. Staff is recommending that the applicants consider limiting the height of the fence around the perimeter of the deck. The proposed fence is 6 ft. in height where only 3 ft. is required by the building code.

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

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** a variance to allow for the construction of a deck, shed and fence on or within 40 feet of the top of a steep slope located at 4800 16<sup>th</sup> Avenue South subject to the following conditions:

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

**Attachments:**

1. Written descriptions and findings submitted by the applicant
2. October 5, 2011, letters to Regina, Field, Northrop Neighborhood Association and CM Quincy
3. Zoning map
4. Topographical map
5. Site plan
6. Floor plans
7. Elevations
8. Photos of the site and surrounding area.