

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-5556

Date: May 24, 2012

Applicant: Al Theisen

Address of Property: 2201 52nd Street West

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

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

Date Application Deemed Complete: April 27, 2012

End of 60 Day Decision Period: June 26, 2012

Ward: 13 Neighborhood Organization: Lynnhurst Neighborhood Association

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

Zoning Plate Number: 35

Legal Description: Not applicable

Proposed Use: A deck addition to an existing single-family dwelling

Variance to allow for development on or within 40 feet of the top of a steep slope to allow for the construction of a new deck accessory to an existing single-family dwelling 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 subject property is approximately 100 feet by 145 feet (14,473 square feet) and is occupied by an existing single-family dwelling with an attached garage. The property is bound by 52nd Street West to the north and Minnehaha Creek to the south. The subject property is also located in the SH Shoreland Overlay District and the survey shows that there is a grade change exceeding 18 percent just beyond a retaining wall on the property. The applicant is proposing to construct a new 15 foot by 17 foot deck at the southwest corner of the structure. The deck will have a total of three footings, all 18 inches wide by 54 inches deep. Two of the footings will be constructed below the retaining wall and into the slope. Due to the proximity of the property to Minnehaha Creek, the grades on site and the

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location within the SH Shoreland Overlay District, the proposal requires a variance to construct the proposed deck on and within 40 feet of the top of a steep slope.

A portion of the subject property is located in the FP Floodplain Overlay District. The FP Overlay District was established to comply with the rules and regulations of the National Flood Insurance Program and govern development within the District in order to minimize damage to property due to flooding and promote public health, safety and welfare. The proposed deck will be located outside of the district boundary and is therefore not subject to additional regulations established in this ordinance.

As of writing this staff report, staff has not received any correspondence from the Lynnhurst 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 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, attached garage, walkways and retaining wall are located 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. The applicant will be installing two new footings below the retaining wall and has stated that this is the required size for the slope and soil conditions.

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

The proposed deck does not present danger of falling rock, mud, uprooted trees or other materials. There will be minimal disturbance of existing slope or soil to allow for the two proposed footings.

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.*

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The project area is located on and 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 construct a new 15 foot by 17 foot deck, accessory to the existing single family dwelling. There will be minimal disturbance of the existing slope and soil to allow for the footings to support the deck.

- 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 deck located on and within 40 feet of the top of a steep slope in the SH Shoreland Overlay District. There will be minimal disturbance of the existing slope and soil to allow for the footings to support the deck. 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 on and within 40 feet of the top of a steep slope. 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 significant changes to slope or soil 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.**

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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.

According to the survey, the subject property includes a portion of Minnehaha Creek. The proposed deck is separated from the creek by a slope that is over 36 feet in height. In addition, the slope is heavily wooded. Staff believes that the visibility of the new deck will be limited due to the existing topography and natural vegetation.

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

According to the survey, the subject property includes a portion of Minnehaha Creek. However, the deck addition 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 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 new deck accessory to an existing single-family dwelling located at 2201 52nd Street West 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) Neighbor correspondence
- 4) Zoning map
- 5) SH Shoreland Overlay District and FP Floodplain Overlay District map
- 6) Survey/site plan
- 7) Deck construction plans
- 8) Photographs