

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ-5756

**Date:** September 27, 2012

**Applicant:** Yerigan Construction

**Addresses of Property:** 1937 Ewing Avenue South

**Contact Person and Phone:** Bruce Yerigan, (612) 920-8911

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

**Date Application Deemed Complete:** September 6, 2012

**End of 60-Day Decision Period:** November 5, 2012

**Ward: 7      Neighborhood Organization:** Bryn Mawr Neighborhood Association

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

**Zoning Plate Number:** 17

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

**Proposed Use:** Remove existing deck and add a second floor addition 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, Section 525.520 (17) “To permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forth (40) feet of the top of a steep slope or bluff.

**Background:** The subject property is approximately 50 feet by 171 feet, on average, (8,558 square feet) and the property includes a single-family dwelling with a detached garage on an interior lot. The applicants are proposing to remove the existing deck on the front façade to construct a new enclosed porch addition, on posts. The existing single-family dwelling is located within 40 feet of the top of a steep slope. Due to the proximity of the property to Cedar Lake, the grades on site and the location within the SH Shoreland Overlay District, the proposal requires a variance to add the addition within 40 feet of a steep slope.

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 is located within 40 feet of the top of the steep slope and requires 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 existing steep slope is located at the front of the site. The proposed addition will not require any modification or new foundation. Instead, the addition will be supported by four hand excavated post footings. This will require minimal disruption of the existing soil for the proposed project where the addition is to be constructed. There will be no modification of the existing steep slope.

- 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. The existing steep slope is located at the front of the site and is approximately 35 feet from the proposed addition. The addition will be supported by four hand excavated post footings. This will require minimal disruption of the existing soil for the proposed project where the addition is to be constructed. There will be no modification of the existing steep slope.

- 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 Cedar Lake will be consistent with what has existed on this property for many years.

#### **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.

- 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 Cedar Lake. These circumstances have not been created by the applicant. The proposed addition requires a variance to allow for construction within 40 feet of the top of the steep slope. The existing steep slope is located at the front of the site and is approximately 35 feet from the proposed addition. The addition will be supported by four hand excavated post footings. This will require minimal disruption of the existing soil for the proposed project where the addition is to be constructed. There will be no modification of the existing steep slope. The applicant is proposing to remove an existing deck in approximately the same location as the proposed addition. The addition will be the same width as the existing deck, but it will be 3 feet deeper. The proposed addition will not be located in any of the required setbacks.

- 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 an addition to an existing dwelling located within 40 feet of the top of a steep slope in the SH Shoreland Overlay District. 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 had the plans reviewed by a structural engineer and the recommendation is to use four hand excavated post footings to support the proposed addition. The applicant has demonstrated that the necessary precautions will be taken during the construction of the project and no changes will be made to the existing slope. An addition to the house would require a variance given the presence of the steep slope on the property. 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 proposed variance will not alter the essential character 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 and the existing steep slope is located at the front of the site. There will be minimal disruption of the existing soil for the proposed project. Therefore, the subject site will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

**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.**

The applicant has had the plans reviewed by a structural engineer and the recommendation is to use four hand excavated post footings to support the proposed addition. The applicant has demonstrated that the necessary precautions will be taken during the construction of the project and no changes will be made to the existing slope. Therefore, the subject site will not be significantly altered to adversely affect the water quality of Cedar Lake.

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

Staff does not believe that the proposed development will be visible from Cedar Lake. The proposed addition will be located on the west side of the dwelling, away from the Cedar Lake.

**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 Cedar Lake. The proposed project will not require the accommodation of any watercraft of Cedar Lake.

**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 development on or within 40 feet of the top of a steep slope to allow for the construction of an addition to the front of an existing single-family dwelling located at 1937 Ewing Avenue South in the R1 Single-Family District and SH Shoreland Overlay District, subject to the following conditions of approval:

1. Approval of the final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.
2. All site improvements shall be completed by September 27, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. The additions shall have compatible materials to the existing structure.

**Attachments:**

1. Written descriptions and findings submitted by the applicant
2. August 24, 2012, letters to Council Member Goodman and Bryn Mawr Neighborhood Association
3. Zoning map
4. SH Shoreland Overlay map
5. Survey/site plan
6. Floor plans
7. Elevations
8. Photos of the site and surrounding area