

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-5847

Date: November 29, 2012

Applicant: Charles Schatz of Reprise Design, on behalf of Poor Man’s Paradise, Inc. dba: Psycho Suzi’s Motor Lounge.

Addresses of Property: 1900 & 1924 Marshall Street NE

Contact Person and Phone: Charles Schatz, (952) 562-3732

Planning Staff and Phone: Jacob Steen, (612) 673-2264

Date Application Deemed Complete: November 7, 2012

End of 60-Day Decision Period: January 5, 2012

Ward: 3 Neighborhood Organization: Bottineau Neighborhood Association

Existing Zoning: C2 Neighborhood Corridor Commercial District, FP Floodplain Overlay District, MR Mississippi River Critical Area Overlay, and SH Shoreland Overlay District

Zoning Plate Number: 9

Legal Description: Not applicable for this application

Proposed Use: The addition of an 869 square foot second-story deck at the rear of the structure

Proposed Variance: A variance to allow a second story deck addition within forty (40) feet of the top of a steep slope, and within fifty (50) feet of the ordinary high water mark at 1900 Marshall Street NE.

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 forty (40) feet of the top of a steep slope or bluff;” Section 525.520(18) “To permit development in the SH Shoreland Overlay District within fifty (50) feet of a protected water.”

Background: The subject property consists of two adjacent parcels with a combined lot area of 44,789 square feet. The structure is a two-story restaurant with a gross floor area of 14,850 square feet, approximately 7,180 square feet dedicated to customer area. To the north of the property is Gluek Park, which is owned by the Minneapolis Park and Recreational Board; to the south is an industrial property; and along the western edge of the site is the Mississippi River. At the rear of the structure is an existing patio and a 6,800 square foot deck which runs along the top of the existing bluff. The existing deck and patio were permitted via a variance in July 2010 (BZZ 4778). The bluff averages an approximately

sixty-five (65) percent slope and drops eighteen (18) feet towards the river from the edge of the existing deck.

The applicant is proposing to construct an 869 square foot second-story deck over the existing patio at the rear of the structure. The deck projects approximately twenty (20) feet from the exterior building wall towards the river. New sliding glass doors with sidelights will be installed into the second floor to create access. Footings for the deck will be bored into the existing concrete patio below.

In the Shoreland Overlay and the Mississippi River Critical Area Overlay Districts a variance is required for development on a steep slope or within forty (40) feet of the top of a steep slope or within fifty (50) feet of the ordinary high water mark. The proposed deck is within forty (40) feet of the top of a steep slope and within fifty (50) feet of the ordinary high water mark.

Staff has not received any correspondence from the Bottineau Neighborhood Association. Staff will forward comments, if any are received, to the Board of Adjustment at the public hearing.

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 deck was constructed along the top of the bluff pursuant to a variance obtained in July 2010 (BZZ 4778). In addition to the deck, the patio, parking areas, trash enclosures, and portions of the existing structure are all within forty (40) feet of the top of the steep slope.

- 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 is proposing to use footings that will require minimal boring into the existing concrete patio, which is located approximately twenty (20) feet from the top of the steep slope.

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

The proposed project does not present danger of falling rock, mud, uprooted trees or other materials. The footings will be approximately twenty (20) feet from the top of the steep slope and will be placed in an area that is currently a concrete patio. There will be no tree loss or 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 proposed deck expansion will be architecturally integrated into the second floor of the structure. Due to the height of the slope and the amount of existing vegetation on site, large portions of the site are screened from view, depending on the vantage point along the river. The proposed deck will not be out of character with the surrounding developed properties.

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 the Mississippi River. These circumstances have not been created by any persons presently having an interest in the property. The parking lot, a portion of the building, and many other site improvements are already located within 40 feet of the top of the steep slope and have been since the structure was constructed in 1968. Under the requirements of the Shoreland Overlay and Mississippi River Critical Area Overlay Districts, any development or improvements to the westernmost one-third of the site requires a variance.

The applicant is proposing to construct an 869 square foot second-story deck over the existing patio at the rear of the structure. The deck will be accessible from the interior of the building on the second floor. Footings for the deck will be bored into the existing concrete patio below. The footings will be approximately twenty (20) feet from the top of the steep slope.

- 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 the construction of a second-story deck within forty (40) feet of the top of a steep slope and within fifty (50) feet of the ordinary high water mark. The intent of the ordinance is to minimize the visual impact of development from protected waterways and reduce the effects of erosion and runoff. The proposed development will require very minimal disturbance of the existing site and development will occur in an area that is already covered by a concrete patio, over twenty feet from the top of the steep slope, separated by the raised deck.

The deck is open on all sides and will be constructed of cedar decking with a cable railing. It has been architecturally designed to be incorporated into the overall aesthetic plan to reduce visual impact from the river. The sand bank at the water's edge will not be disturbed as part of this project and will continue to remain undeveloped for access when water levels allow. 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.

Furthermore, this parcel (the former Gabby’s site) is included in the geographic area addressed in the City of Minneapolis’ Above the Falls Plan adopted in 2000. The Above the Falls plan includes the following language regarding the area from Gluek Park to the Burlington Northern Bridge:

In the middle of the expanded park, Gabby’s Saloon and Eatery brings hundreds of people to the riverbank each week. The enlarged patio fills at sunset, and nearby steps lead patrons down to the banks of the Mississippi. Frequently boaters dock and climb the stairs to dine. South of Gabby’s the river can be experienced on either the formal trails at the upper level or along the sand bank at water’s edge.

The granting of this variance would not conflict with the Above the Falls plan and would be in keeping with the spirit and intent of the adopted policy language.

- 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 proposed second-story deck will be constructed over twenty (20) feet from the top of the steep slope and there will be no modification of the existing slope or bluff. Therefore, the subject site will not be significantly altered to adversely affect the water quality of the Mississippi River. Granting of the variance 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.**

Staff believes that the proposed project will not affect soil erosion or other possible pollution during construction or after construction. The existing deck runs approximately 150’ along the top of the existing bluff and will not be disturbed. Required footings for the proposed deck will be located beneath the existing concrete patio. All discarded and unused building materials will be carefully and properly contained during the project and removed from the site after the project is completed.

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

Staff believes the proposed development will permit limited site lines from the Mississippi River. Planning staff believes the proposed project has been adequately designed to be visually integrated into the existing design of the building to reduce visual impact from the river. The existing roof peak is twenty five and a half (25.5) feet tall and the top of the proposed deck

railing will be sixteen and a half (16.5) feet tall. The deck railing will be made of cable with cedar posts to create minimal visual impact. Additionally, the slope leading to the river is wooded and helps to limit the views of the subject property from the river.

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

The subject site has an existing foot path leading from the narrow rocky beach along the river's edge up to the parking lot. This path will be able to sustain the current minimal foot traffic. There are no alterations proposed to the existing path as part of the existing project. Staff does not anticipate that the second-story deck will create a demand for additional patrons accessing the river.

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 a second-story deck addition within forty (40) feet of the top of a steep slope, and within fifty (50) feet of the ordinary high water mark at 1900 Marshall Street NE in the C2 Neighborhood Corridor Commercial District, FP Floodplain Overlay District, MR Mississippi River Critical Area Overlay, and SH Shoreland Overlay District.

Attachments:

1. Written descriptions and findings submitted by the applicant
2. Zoning map
3. Survey
4. Site plan
5. Floor plans
6. Elevations
7. Photos of the site