

Department of Community Planning and Economic Development Report
Variances
BZZ 5879

Date: February 28, 2013

Applicant: Tom Meckey on behalf of Janet Rensberger

Address of Property: 4912 James Avenue

Contact Person and Phone: Tom Meckey, (612) 327-8303

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

Date Application Deemed Complete: February 5, 2013

End of 60-Day Decision Period: April 5, 2013

Ward: 13 **Neighborhood Organization:** Lynnhurst Neighborhood Association

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

Zoning Plate Number: 30

Legal Description: Not applicable

Proposed Use: Construct a new single-family dwelling.

Proposed Variance: Tom Meckey, on behalf of Janet Rensberger, applied for a variance to the FP Floodplain Overlay District, which requires that the structure shall be elevated on fill to the base flood elevation for fifteen (15) feet beyond the outside limits of the structure, to allow for the construction of a single-family dwelling at 4912 James Avenue South in the R1 Single-Family District, FP Floodplain Overlay District and SH Shoreland Overlay District.

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, section 525.520(19) “[t]o permit alternative forms of flood protection for uses and structures located in the FP Floodplain Overlay District.”

Background: The subject property is approximately forty (40) feet by 128 feet (5,120 sq. ft.) and consists of a one and a half story single-family dwelling, constructed in 1942, with a detached garage. The applicant is proposing to tear down the existing structure and build a new two and a half story single-family dwelling on the parcel. However, the parcel is located in the 100-year floodplain, as designated by the FP Floodplain Overlay District, which is regulated under the National Flood Insurance Program (NFIP), codified in 44 Code of Federal Regulations sections 59–78. The Flood Insurance Rate Maps (FIRMs) adopted by the City of Minneapolis in 2004 identify the parcel as being located within

the 100-year floodplain, with the exception of the southeast corner of the parcel. In 2011, the property owners applied for and received a Letter of Map Amendment (LOMA) from the Federal Emergency Management Administration officially amending the FIRMs to remove the existing structure from the 100-year floodplain. This exemption, however, only applies to the existing structure, and any new structure must comply with the locally adopted floodplain regulations.

A new single family home in the 100-year floodplain is a permitted, pursuant to the following requirements:

Structures. All structures and all additions to such structures shall be elevated on fill so that the lowest floor, including the basement, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation *at least fifteen (15) feet beyond the outside limits of the structure erected thereon.*

Minneapolis Code of Ordinances (MCO) section 551.630(1) (emphasis added). The proposed single family home would be constructed on fill, without a basement, to a first floor elevation of 846.4', thereby satisfying the requirement that the lowest floor is elevated at or above the regulatory flood protection elevation (the regulatory flood protection elevation (RPFE) is 846.2', which includes one (1) foot of "freeboard" above the base flood elevation (BFE) of 845.2'). However, due to the forty (40) foot lot width, the applicant is unable to satisfy the second requirement, that the raised fill elevation must extend at that elevation for at least fifteen (15) feet beyond the outside limits of the structure. The applicant can satisfy this requirement with respect to fill elevations at both the front and rear of the structure, but can only raise the fill for approximately six (6) feet into the interior side yards north or south of the structure. The applicant's variance application is to reduce this requirement with respect to the interior side yards.

Staff has not received correspondence from the Lynnhurst Neighborhood Association for the project. Staff will forward comments, if any are received, to the Board of Adjustment at their regular meeting.

Findings Required by the Minneapolis Zoning Code:

VARIANCE to the fill requirements of the Floodplain Overlay District.

- 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.**

Staff recognizes that the substandard lot width and location in the floodplain are circumstances unique to this property. The standard minimum lot width in the R1 Single Family District is fifty (50) feet. The subject parcel is a substandard width of forty (40) feet. Any new single-family dwelling must be at least twenty-two (22) feet wide pursuant to section 535.90. Therefore, to construct a new single-family dwelling on a parcel in the Floodplain Overlay District, the lot must be a minimum width of fifty-two (52) feet wide to accommodate the minimum structure width of twenty-two (22) feet and fifteen (15) feet of elevation in all directions. Without the variance, a new single-family dwelling cannot be constructed on the subject parcel. These circumstances were not created by the applicant or any person presently having an interest in the property.

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 purpose of the Floodplain Overlay District is to minimize damage due to flooding and to maintain the community's eligibility in the NFIP, thereby allowing residents of Minneapolis to purchase flood insurance. The standards are written to apply to communities of all types throughout the United States and were not necessarily drafted to consider the narrow lot width requirements of an urban community like Minneapolis. The applicant is requesting only minimal relief of the fill requirements due to the narrow lot width and will otherwise comply with all of the requirements of the ordinance.

The Minneapolis Comprehensive Plan describes the future land use of the neighborhood as "urban neighborhood," which consists of a range of residential densities with a limited amount of other uses appropriate in a residential setting. The applicant is proposing to demolish the existing structure and build a new single-family dwelling on the parcel. The existing single-family home was constructed in 1942 and the neighborhood largely consists of single-family homes and institutional uses. Staff believes that the applicant is proposing to use the property in a reasonable manner and granting this variance to permit the construction of a new single-family home is in keeping with the spirit and intent of the ordinance and comprehensive plan.

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 the variances will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity. The proposed structure will be elevated to approximately the same elevation as the existing single-family home and will otherwise be required to comply with all of the requirements for the construction of a new single-family home in the R1 Single Family District. The property is located in the floodplain that would be fed by Minnehaha Creek in a 100-year flood event. Minnehaha Creek is located approximately 1,000 feet directly south of the subject property, separated by 50th Street West. The distance to the creek and the significant amount of infrastructure between the creek and the subject parcel makes it unlikely that the depth and velocity of the floodwaters in a 100-year flood would substantially affect the subject parcel. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or those utilizing the property or nearby properties.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt the findings above and **approve** the variance to the FP Floodplain Overlay District,

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which requires that the structure shall be elevated on fill to the base flood elevation for fifteen (15) feet beyond the outside limits of the structure, to allow for the construction of a single-family dwelling at 4912 James Avenue South in the R1 Single-Family District, FP Floodplain Overlay District and SH Shoreland Overlay District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Zoning map
- 3) FEMA Flood Insurance Rate Map (FIRM)/Minneapolis GIS Images
- 4) Site plan
- 5) Photographs
- 6) Correspondence